

ARTICLE 4

ZONING DISTRICTS AND DIMENSIONAL REGULATIONS

***Summary:** This Article divides the City into districts for the purpose of regulating the use of lands within the districts, as well as dimensional requirements and other standards applicable to construction, reconstruction and alterations of such uses. This Article establishes a series of basic zoning districts, overlay districts (Airport Overlay, Floodplain Overlay, Watershed Protection Overlays, Corridor Overlays, Historic Overlays, and River/Stream Overlays) within which additional standards may apply, and “floating zones” (PUD, TND, and TOD districts) which may be designated by request. Refer to Article 5 for additional regulations applicable to particular uses.*

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4.1. PURPOSE STATEMENT FOR ZONING DISTRICTS.

4.1.1. Purpose.

The City is hereby zoned and divided into districts.
The purpose of establishing these districts is:

- 4.1.1.1.** To implement the Comprehensive Plan;
- 4.1.1.2.** To promote the health, safety, morals, or the general welfare;
- 4.1.1.3.** To provide for the orderly growth and development of the City and for the efficient use of our resources (land, water, roads, etc.);
- 4.1.1.4.** To lessen congestion in the streets;
- 4.1.1.5.** To secure safety from fire, panic, and other dangers.
- 4.1.1.6.** To facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

4.2. ESTABLISHMENT OF ZONING DISTRICTS.

4.2.1. PURPOSE AND INTENT.

In accordance with the requirement of NCGS § 160A-382 that zoning regulation be by districts, the City, as shown on the Official Zoning Map accompanying this Ordinance and incorporated herein by this reference, is hereby divided into the following zoning districts which shall be governed by all of the uniform use and area requirements of this Ordinance, the respective symbol for each type of district being set forth opposite its title:

AG	Agricultural District
RE	Rural Estate District
RL	Residential Low Density
RM-1	Residential Medium Density
RM-2	Residential Medium Density
RV	Residential Village
RC	Residential Compact
B-1	Neighborhood Commercial/Office District
O-I	Office-Institutional District
CC	City Center District
C-1	Light Commercial and Office District
C-2	General Commercial District
CD	Campus Development District
I-1	Light Industrial District
I-2	Heavy Industrial District
PID	Public Interest District
PUD	Planned Unit Development District
TND	Traditional Neighborhood Development District
TOD	Transit Oriented Development District

4.2.2. OVERLAY DISTRICTS.

In accordance with the authority provided by NCGS § 160A-382, the City hereby establishes the following overlay districts which shall be governed by all of the uniform use and area requirements of this Ordinance. Within these overlay districts, additional requirements are imposed on certain properties within one or more underlying general or conditional zoning districts. The symbol for each type of district is as follows:

AO	Airport Overlay District
H	Historic Overlay District
F	Flood Plain Overlay District
MH-1	Manufactured Home Overlay
MH-2	Manufactured Home Overlay
CCTPOD	Coddle Creek Thoroughfare Protection Overlay District

4.2.3. CONDITIONAL ZONING DISTRICTS.

In addition to the base zoning districts established in § 4.2.1, above, the following conditional zoning districts are established which correspond to the above-referenced base zoning districts, and which are identical to the base zoning districts with the exception that a site plan is required as a prerequisite to any use or development therein, as provided for in this Article and in § 3.4 of this Ordinance.

AG-CZ	Agricultural Conditional Zoning District
RE-CZ	Rural Estate Conditional Zoning District
RL-CZ	Residential Low Density Conditional Zoning District
RM-1-CZ	Residential Medium Density Conditional Zoning District
RM-2-CZ	Residential Medium Density Conditional Zoning District
RV-CZ	Residential Village Conditional Zoning District
RC-CZ	Residential Compact Conditional Zoning District
B-1-CZ	Neighborhood Commercial/Office District Conditional Zoning District
CC-CZ	City Center Conditional Zoning District
C-1-CZ	Light Commercial and Office District Conditional Zoning District
C-2-CZ	General Commercial District Conditional Zoning District
CD-CZ	Campus Development Conditional Zoning District
I-1-CZ	Light Industrial District Conditional Zoning District
I-2-CZ	Heavy Industrial District Conditional Zoning District
PUD-CZ	Planned Unit Development District
TND-CZ	Traditional Neighborhood Development District
TOD-CZ	Transit-Oriented Development District
PID-CZ	Public Interest Development District

4.2.4. ADDITIONAL ZONING DISTRICTS.

Additional zoning districts may be added from time to time upon the recommendation of the Planning and Zoning Commission to the City Council pursuant to § 3.3 of this Ordinance.

4.3. ZONING DISTRICT PURPOSE STATEMENTS

4.3.1. PURPOSE STATEMENT.

The purpose of this Article is to implement the land use policies of the Comprehensive Plan. Pursuant to NCGS § 160-A-383, all zoning ordinances or regulations adopted pursuant to this Ordinance shall be consistent with the Comprehensive Plan and any specific plans of the City Council, if any, as adopted under NCGS Article 19 of Chapter 160A. This Section describes the relationship between the various zoning districts and the Comprehensive Plan and a summary of each development district in tabular form. However, to the extent that there is any inconsistency between the tabular summary and the specific provisions of § 4.7 et seq. of this Ordinance, the provisions of § 4.7 et seq. shall prevail.

4.3.2. PURPOSE STATEMENTS FOR BASE ZONING DISTRICTS.

4.3.3. AG AGRICULTURAL DISTRICT.

The AG (Agricultural) district is established to provide areas for low intensity agricultural operations and very-low density single-family residential home construction. AG zoning is intended to provide short-term protection and preservation of open space, farmland and rural areas from premature land subdivision and land development prior to the installation of municipal utilities. Furthermore, the AG district is intended to be a “holding zone” designed to facilitate orderly growth and development in areas expected to experience increased urbanization over time.

4.3.4. RE RURAL ESTATE.

The RE district is established to provide areas for low density single family uses, with a maximum of one (1) dwelling unit per acre. Property zoned RE should include only those tracts which abut or are in close proximity to existing large-lot single family development, making RE an appropriate transition district between rural, agricultural, and suburban uses.

4.3.5. RL RESIDENTIAL LOW DENSITY DISTRICT.

The RL district is established to provide areas for low density single family uses, with a maximum of two (2) dwelling units per acre, which may provide buffers between the agricultural and RE classifications and the higher density areas of the City. It includes flexible density and minimum lot size requirements in order to

allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

4.3.6. RM-1 RESIDENTIAL MEDIUM DENSITY DISTRICT.

The RM-1 district is established to provide areas for medium density, single-family residential uses, with a maximum of three (3) dwelling units per acre, where adequate public facilities and services exist with capacity to serve development. Residential Medium Density provides flexible minimum lot size and density requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

4.3.7. RM-2 RESIDENTIAL MEDIUM DENSITY DISTRICT.

The RM-2 district is established to provide areas for medium density, single-family residential uses, with a maximum of four (4) dwelling units per acre, where adequate public facilities and services exist with capacity to serve development. Residential Medium Density provides flexible minimum lot size and density requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

4.3.8. RV RESIDENTIAL VILLAGE DISTRICT.

The RV district is established to provide areas for detached and attached single family homes, with a maximum of eight (8) dwelling units per acre, in areas where large-lot development is discouraged and adequate public facilities and services are available. RV supports the principles of concentrating urban growth and reinforcing existing community centers. Design controls are required for single-family attached projects as set forth in Article 11.

4.3.9. RC RESIDENTIAL COMPACT DISTRICT.

The RC district is established to provide a high density residential district allowing compact development consisting of the full spectrum of residential unit types

where adequate public facilities and services are available. Unit types may include single family attached dwellings, townhouses, duplexes and apartments, with a maximum of fifteen (15) dwelling units per acre except as otherwise provided in this Ordinance. RC may serve as a transitional district between lower density residential and low intensity commercial uses. This district is intended to allow a mix of residential unit types and densities to provide a balance of housing opportunities while maintaining neighborhood compatibility. Design controls are required for multi-family and/or single-family attached projects as set forth in Article 11.

4.3.10. B-1 NEIGHBORHOOD COMMERCIAL DISTRICT.

The B-1 district is established to provide small areas for office and professional services combined with shopfront retail uses, shops for artisans and craftsmen, designed in scale with surrounding residential uses. This district provides a balance of residential and non-residential land use opportunities reflecting the economic needs of residents and business owners. Location of B-1 districts should include: (a) Lots, parcels or tracts located at the intersections of collector streets, including collector/collector and minor thoroughfare/collector, except where an existing building or structure used as permitted in the B-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning. The distance shall be measured between the closest boundaries of the two (existing and proposed) districts

4.3.11. CC CITY CENTER DISTRICT.

The CC district is established to provide concentrated downtown retail, service, office, industrial and mixed uses (including residential uses) in the existing central business districts. Shopping centers are permitted, but urban design standards as set forth in Article 11 are required in order maintain a neighborhood commercial scale, to promote pedestrian activity, and to maintain the unique character of the center. Pedestrian circulation is required as are common parking areas. The CC district promotes the long-term vitality of the central business districts. No rezoning to a CC or a CC-CU District shall be approved unless the lot, parcel or tract subject to the application adjoins an existing CC, or CC-CU zoning district.

4.3.12. O-I OFFICE AND INSTITUTIONAL DISTRICT.

4.3.12.1. The Office and Institutional District is established to provide for agencies and offices rendering specialized services and traditional institutional functions (both public and private) including, but not limited to, governmental facilities, cultural and recreational facilities, educational facilities and charitable institutions. To protect the low intensity character of this district, retail and wholesale trade are prohibited as permitted principal uses.

4.3.13. C-1 LIGHT COMMERCIAL DISTRICT.

The C-1 district is established to provide areas for indoor retail, service and office uses. The purpose of the C-1 district is to accommodate well-designed development sites that provide excellent transportation access, make the most efficient use of existing infrastructure and provide for an orderly transition between uses. C-1 Zones should be located in areas which continue the orderly development and concentration of moderate commercial uses. C-1 zones should be located on or within proximity to major and/or minor thoroughfares. This shall not apply where an existing building or structure used as permitted within the C-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

4.3.14. C-2 GENERAL COMMERCIAL DISTRICT.

The C-2 district is established to provide areas for general commercial activities designed to serve the community such as shopping centers, repair shops, wholesale businesses, and retail sales with limited outdoor display of goods and limited outdoor operations. This district promotes a broad range of commercial operations and services necessary for large regions of the County, providing community balance. Rezoning to the C-2 zone should be avoided adjacent to any Single Family Residential Zoning District (RE, RL, RM-1 or RM-2). C-2 zones should be located on or within proximity to major thoroughfares. This shall not apply where an existing building or structure used as permitted within the C-2 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

4.3.15. CD CAMPUS DEVELOPMENT DISTRICT.

The CD district is established to provide for a high-quality mixture of employment and/or institutional uses of varying types in a single coordinated development. The district may include light manufacturing, office, warehousing, distribution, institutional and limited retail and service uses in an attractive campus or corporate park setting with architectural design standards, landscaping, screening and buffering. It is not intended that this district be used to accommodate single-use, single building developments which can be located in other zoning classifications. Development within the district shall conform to specific supplemental design standards of Article 11. Further, the district provides significant flexibility in internal arrangement of uses while assuring a satisfactory integration of the district into the surrounding area. Emphasis will be placed on the project's relationship to existing and future public facilities such as roads and greenways. The district is intended for application in select areas of the City primarily for new development on previously undeveloped land. However, the district may also be applied to areas which are appropriate for redevelopment or conversion where it is apparent that all of the development standards may be fulfilled.

4.3.16. ⁽¹⁾CD-R CAMPUS DEVELOPMENT – RESIDENTIAL DISTRICT.

The CD-R District is established to provide small areas within existing CD Developments for high density residential. The district allows compact residential development consisting of condos, townhouses, and apartments, with a maximum of twenty-two (22) dwelling units per acre where adequate public facilities and services are available, except as otherwise provided in this Ordinance. Development within the district shall conform to the specific design controls required for multi-family and/or single-family attached projects set forth in Article 11.2. The CD-R District shall not be approved unless the lot, parcel, or tract subject to the application adjoins an existing CD Campus Development zoning district and is coordinated with the adjacent CD project.

4.3.17. I-1 LIGHT INDUSTRIAL DISTRICT.

The I-1 district is established to provide for areas that contain a mix of light manufacturing uses, office park and limited retail and service uses that service the industrial uses in an attractive business park setting with proper screening and buffering, all compatible

with adjoining uses. I-1 districts should include areas which continue the orderly development and concentration of light industrial uses. I-1 zones should be located so as to have direct access to or within proximity to a major or minor thoroughfare. This shall not apply where an existing building or structure used as permitted within the I-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

4.3.18. I-2 GENERAL INDUSTRIAL DISTRICT.

The I-2 district is established to provide for areas of heavy and concentrated fabrication, manufacturing and industrial uses which are suitable based upon adjacent land uses, access to transportation and the availability of public services and facilities. It is the intent of this district to provide an environment for industries that is unencumbered by nearby residential or commercial development. I-2 should be located in areas where conflicts with other uses can be minimized to promote orderly transitions and buffers between uses. The I-2 district is established in order to provide sites for activities which involve major transportation terminals, and manufacturing facilities that have a greater impact on the surrounding area than industries found in the I-1 district. I-2 districts should not be located adjacent to any property that is zoned for residential use, including mixed-use developments with an adjacent residential designation. I-2 zones should be restricted so as to have direct access to or within proximity to a major or minor thoroughfare. This shall not apply where an existing building or structure used as permitted within the I-2 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

4.3.19. STANDARDS FOR BASE DISTRICTS.

4.3.19.1. Permitted Uses are listed in Table 4.6-1. Uses permitted by right, uses permitted as conditional uses and uses for which there are supplemental use regulations in Article 5 are indicated in the table. Accessory Uses shall be regulated in accordance with § 5.2 of this Ordinance.

4.3.19.2. Dimensional and density regulations, including setbacks, are listed in Table 4.7-1 and described in detail in § 4.7.

4.3.19.3. Standards for landscaping, screening and

buffering are described in detail in Article 7.

4.3.19.4. Standards for off-street parking and loading facilities, and vehicular access are described in detail in Article 8.

4.3.19.5. Environmental control regulations, including those for stormwater and soil erosion and sedimentation control are described in detail in Article 9.

4.3.19.6. Design and improvement standards for some types of development are regulated in accordance with Article 11. In addition, Article 11 contains specific design standards for the CC Center City District, the CD Campus Development District, and the I-1 Light Industrial District that are unique to the respective districts.

4.3.19.7. Sign regulations are described in detail in Article 12.

4.3.19.8 Adequate public facilities standards are described in detail in Article 14.

4.3.20. PURPOSE STATEMENT FOR OVERLAY ZONING DISTRICTS.

The overlay zone creates special siting, use and compatibility issues which require use development regulations in addition to those found in the underlying zoning districts. If any regulation in an overlay zoning district requires lower densities, greater setbacks, or otherwise imposes greater standards than those required by the base zoning district, the more restrictive standard applies. See §§ 4.12 - 4.17 and §§ 15.1 - 15.3 for the purpose statements and regulations applicable to the overlay zoning districts.

4.3.21. PURPOSE STATEMENTS FOR FLOATING ZONES.

Certain floating zones, such as Cluster and Hamlet Developments, PUD, TND, TOD and PID are established in order to provide design flexibility and for special design regulations for mixed use development or large uses which provide special public benefits. The purpose statement for each floating zone is set forth in the regulations pertaining to the district. (See §§ 4.9-4.11, 4.18).

4.4. ZONING MAP.

4.4.1. BOUNDARIES OF ZONING DISTRICT

The boundaries of zoning districts established by this Ordinance shall be designated on a map or maps entitled Official Zoning Map(s) of the City of Kannapolis. These maps and all references and dates shown thereon shall be certified by the Mayor.

4.4.2. LOCATION OF OFFICIAL ZONING MAP.

4.4.2.1. The Official Zoning Map shall be located in the Office of the Administrator and a copy of the Official Zoning Map shall be kept on file with the City Clerk. Any changes thereto shall be clearly shown on the Official Zoning Map.

4.4.2.2. The Official Zoning Map shall bear a stamp showing the effective date of this Ordinance, shall be certified by the Administrator, shall be identified by the signature of the Mayor, shall be attested by the City Clerk, and bear the seal of the City under the words: "Official Zoning Map, City of Kannapolis, North Carolina". Said map is composed of a series of sheets properly identified as such, which shall be on file in the office of the Administrator, and shall be the official record of zoning status of areas within the City. Land within zoning districts on the Official Zoning Map shall be classified with a zoning district designation, which shall supersede any contrary designation on the Former Official Zoning Map. Regardless of the existence of any purported copy of the Official Zoning Map, the zoning map which shall be located in the office of the Administrator shall be the final authority as to current zoning status.

4.4.2.3. If a zoning district is eliminated and there is no corresponding zoning district classification on the Official Zoning Map, the property shall remain subject to all restrictions, regulations and conditions imposed under the zoning ordinance in effect at the time that the Former Official Zoning Map was effective unless and until the zoning classification of the property is amended pursuant to this Ordinance.

4.4.2.4. If a property is zoned to a Conditional Zoning District at the time of adoption of this ordinance, it shall remain subject to all terms, conditions, and restrictions of approval under the zoning ordinance in effect when the Conditional Zoning classification was approved, including any

specific modifications of the then-existing zoning regulations, and any approved final plans, unless and until the zoning classification of such property is amended pursuant to this Ordinance.

4.4.3. OFFICIAL ZONING MAP.

The Official Zoning Map is hereby incorporated by reference as if set forth in its entirety herein, and may be referred to as Article Four, Section 4.4 of the UDO.

4.5. DISTRICT BOUNDARIES.

4.5.1. ZONING DISTRICT BOUNDARIES.

Unless otherwise provided, zoning district boundaries shall be located on municipal corporate lines, parcel lines, natural boundary lines or on the center lines of highways, streets, alleys, or railroad rights-of-way. In cases where these lines are not used, the zoning district lines shall be as determined by using the scale of the Official Zoning Map. If a parcel of land is divided by a zoning district boundary line at the time of enactment of this Ordinance or by subsequent amendments thereto, the appropriate standards and uses for each zone shall apply on the portion of the parcel covered by that zone.

4.5.2. BOUNDARY OR LOCATION DISPUTES.

Any dispute as to the boundary or location of property within a zoning district shall be resolved in accordance with the following:

4.5.2.1. When a district boundary is shown as approximately following a street, highway, alley, road, right-of-way, parkway, public utility right-of-way, railroad, stream or watercourse, the boundary shall be deemed to be the center line of such feature.

4.5.2.2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

4.5.2.3. Boundaries indicated as approximately following established municipal limits and county borders shall be construed as following such lines.

4.5.2.4. Boundaries indicated as separated from but approximately parallel to any of the features indicated in sections 4.5.2.1 through 4.5.2.3 above, or any landmarked or monumental line, shall be deemed to be parallel to the aforesaid center line or railroad track mid-point.

4.5.2.5. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

4.5.2.6. Where a street, highway, railroad or other physical monument or marker on the ground, by which a boundary is determined, varies from that as shown on the Official Zoning Map, the physical

monument or marker located on the ground shall control.

4.5.2.7. Where physical features, such as flood plains, vary from those shown on the Official Zoning Map, or in other circumstances not covered by subsections 4.5.2.1 through 4.5.2.6 above, the Administrator shall determine the district boundaries. Any aggrieved person may appeal such determination to the Board of Adjustment, pursuant to § 3.6 of this Ordinance.

4.6. USE REGULATIONS.

4.6.1. GENERALLY.

4.6.1.1. No use shall be permitted pursuant to this Ordinance, and no Development Permit authorizing a use may be authorized, issued, or approved by any officer, official, or agency, unless said use is listed as a permitted or conditional use in this Section 4.6 and all applicable permits and approvals have been issued by the agency or official with final decision-making authority. Those uses permitted as Primary Uses or Buildings within each zoning district shall be those uses listed in the Use Matrix (Table 4.6-1) and as forth in § 4.6.2, below.

4.6.1.2. Permitted Accessory Uses are set forth in § 5.2 of this Ordinance, while permitted Temporary Uses are set forth in § 5.22 of this Ordinance. If a Primary use is listed as prohibited in a Zoning District, but is permitted as an Accessory Use in § 5.2 of this Ordinance, the use is permitted only as an Accessory Use to a Principal Use or Principal Building on the same lot, tract or parcel. Such uses cannot be established unless and until there is a Principal Use or Principal Building on the same lot, tract or parcel to which that use is accessory.

4.6.2. PRIMARY USES.

4.6.2.1. Use Matrix. No zoning clearance permit shall be issued for a Primary use not specifically mentioned or described by category in the Use Matrix (Table 4.6-1). Evaluation of these uses shall be as set forth in § 4.6.2.2, below. Notwithstanding any provision of this Section to the contrary, uses which are preempted by state statute are not listed in the Use Matrix, and may be permitted in accordance with state law.

4.6.2.2. PUD, TND, TOD and PID Excluded. Uses in the PUD, TND, TOD, and PID districts shall be governed by their respective Sections in this Ordinance and not be included in Table 4.6-1.

4.6.2.3. Use Determinations. The Administrator shall make a determination if a use not mentioned can reasonably be interpreted to fit into a use category where similar uses are described.⁽¹⁾ It is the intent of this Article to group similar or compatible land uses into specific zoning districts, either as permitted uses or as uses

authorized by a conditional use permit. Uses not listed as a permitted or conditional use shall be presumed to be prohibited from the applicable zoning district. In the event that a particular use is not listed in the Use Matrix, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the Administrator shall determine whether a materially similar use exists in this Section. Should the Administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the Administrator's decision shall be recorded in writing. Should the Administrator determine that a materially similar use does not exist, the matter may be referred to the Planning and Zoning Commission for consideration for amendment to this Ordinance to establish a specific listing for the use in question. The Administrator may determine that a use is materially similar if it falls within the same industry classification of the *North American Industry Classification Manual* (Executive Office of the President, Office of Management and Budget, 1997) ("NAICS") (subject to § 4.6.2.4, below), and if the proposed use does not generate trips exceeding other uses proposed in the zoning district by more than ten percent (10%), as determined by the Institute of Transportation Engineers, *Trip Generation* (5th ed., 1991), which documents are hereby incorporated by this reference. The Administrator may also refer to similar studies relating to trip generation for the specific use prepared by a licensed professional engineer associated with a firm listed on the NCDOT "register of Firms" pursuant to 19A NCAC 2E.0702.

4.6.2.4. NAICS numbers. In order to assist in interpretation of the Use Matrix, the NAICS numbers follow each use in Table 4.6-1. In interpreting the Use Matrix, the following rules of construction shall apply:

4.6.2.4.1. If a use is listed for a specific classification, while a more general classification within the same industry classification is also listed for another use, the specific classification governs the use.

4.6.2.4.2. Some uses are listed separately, but fall within the same NAICS classification. The

uses within one such classification are not permitted in all of the zoning districts as the others simply because they fall within the same NAICS classification.

4.6.2.5. Matrix Symbols. The use categories listed in the first column of Table 4.6-1 are defined in this Ordinance, the NAICS, or in other resources cross-referenced in this Ordinance.

P

Permitted Uses. The letter “P” indicates that the listed use is permitted by-right within the zoning district. Permitted uses are subject to all other applicable standards of this Ordinance.

S

Permitted Uses with Supplemental Regulations. The letter “S” indicates that the listed use is either a use permitted by-right or a conditional use within the zoning district. However, the use is also subject to specific design regulations as prescribed in Article Five and/or Article Eleven. The specific reference is indicated in (§ ____) behind a specific use as listed in the Use column of Table 4.6-1.

C

Conditional Uses. The letter “C” indicates that the listed use is permitted within the respective zoning district only after review and approval of a Conditional Use Permit, in accordance with the review procedures of § 3.5 of this Ordinance. Conditional Uses are subject to all other applicable standards of this Ordinance and those requirements that may reasonably be imposed by the City consistent with the criteria set forth in § 3.5 of this Ordinance and any Supplementary Use Regulations which apply to said use.

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Prohibited Uses. A dash (“—”) indicates that the listed use type is not allowed within the respective zoning district, unless it is otherwise expressly allowed by other regulations of this Ordinance.

and the Temporary Uses Regulations (Article 5, § 5.22) of this Ordinance.

4.6.3.2. If a use is listed as prohibited in a Zoning District, but is permitted as an Accessory Use in § 5.2 of this Ordinance, the use is permitted only as an Accessory Use to a Principal Use or Principal Building on the same lot, tract or parcel. Such uses cannot be established unless and until there is a Principal Use or Principal Building on the same lot, tract or parcel to which that use is accessory

4.6.3. ACCESSORY USES, SIGNS, AND TEMPORARY USES.

4.6.3.1. Regulations pertaining to the permissible location of Accessory Uses, Signs, and Temporary Uses are set forth in the Accessory Use Regulations (Article 5, § 5.2), the Sign Regulations (Article 12),

4.7. DIMENSIONAL AND DENSITY REGULATIONS.

4.7.1. PURPOSE.

This Section establishes minimum and maximum standards for the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings pursuant to NCGS §160A-381(a).

4.7.1.1. PUD, TND and PID Excluded.

Developments in the PUD, TND, and PID districts shall be governed by their respective Sections in this Ordinance and not be subject to the dimensional and density regulations of this § 4.7 or Table 4.7-1.

4.7.2. DENSITY IN RESIDENTIAL DISTRICTS.

This Section is applicable only to districts in which residential dwelling units are permitted, as listed in Table 4.6-1. For conventional developments, density shall be regulated by the minimum lot area in accordance with Table 4.7-1. For cluster developments, see § 4.8.

4.7.3. DENSITY IN NONRESIDENTIAL DISTRICTS.

Unless otherwise stated, all references to non-residential intensity shall refer to Impervious Surface Ratio.

4.7.4. DIMENSIONAL STANDARDS FOR LOTS.

4.7.4.1. No permit for development shall be issued for a lot that does not meet the lot area requirements of Table 4.7-1 of this Ordinance except in the following instances:

4.7.4.1.1. Lots for public utilities, using land or an unoccupied building of generally less than 2,500 square feet of site area, are exempt from minimum lot standards. Exempted utility lots which exceed 2,500 square feet may be permitted subject to review and approval by the Administrator.

4.7.4.1.2. Nonconforming Lots of Record as defined in § 13.1.2 are exempt from minimum lot standards. Permits may be granted for structures to be built on a nonconforming lot, except that such

structure shall conform to all dimensional setbacks as required in Table 4.7-1 and as set forth in § 4.7.5.1, below.

4.7.5. DIMENSIONAL STANDARDS FOR STRUCTURES.

4.7.5.1. Setbacks.

4.7.5.1.1. Setbacks for buildings or structures are measured as the area between the furthestmost projection of a principal structure and the property line of the lot on which the structure is located, except as modified by the standards of this Section. Setbacks shall be unobstructed from the ground to the sky except as specified in this Section. Building setbacks for each zoning district are set forth in Table 4.7-1.

4.7.5.1.2. The following features may encroach into a required building setback:

- Bay windows or other structural overhang, not to exceed three (3) feet;
- Chimneys, not to exceed two (2) feet;
- Heating and cooling units, not to exceed (3) feet;
- Overhanging roof, eave, gutter, cornice, or other architectural feature and awnings, not to exceed 2 feet;
- Steps, stairs or fire escapes (non-enclosed), not to exceed 6 feet;
- Uncovered, unenclosed decks, terraces, stoops or porches, but in no case closer than five (5) feet to any property line;
- Fences and Garden/Yard Walls;
- Any accessory building or use customarily incidental to the permitted primary use or building as allowed in accordance with § 5.2 "Accessory Uses and Structures".

4.7.5.1.3. Setbacks for Lots with more than One Street Frontage. Structures shall meet the front yard setback from all abutting street rights-of-way unless otherwise provided in this Ordinance. For undeveloped lots, the developer has the option to determine which yard shall be considered the "front" so long as the structure to be constructed on said lot shall have its front facing the same yard. For the purposes of

applying setbacks to existing developed lots, the front yard setback shall be defined as the yard with the shortest amount of street frontage. All other frontages shall be considered street side yards.

elevator, water tank, or to any similar structure or necessary mechanical appurtenance extending above the roof of any building if such structure does not occupy more than 33 percent of the area of the roof.

4.7.5.1.4. Provisions for Reduced Front Yard Setback in Developed Areas. The minimum front yard setback may be reduced for any lot where the average established front setback on developed lots located within 300 feet on each side of such lot, and fronting on the same street as such lot, is less than the minimum required setback. In such cases, the front setback on such a lot may be less than the required front setback but not less than the average of the existing front setbacks on the developed lots within 300 feet of each side.

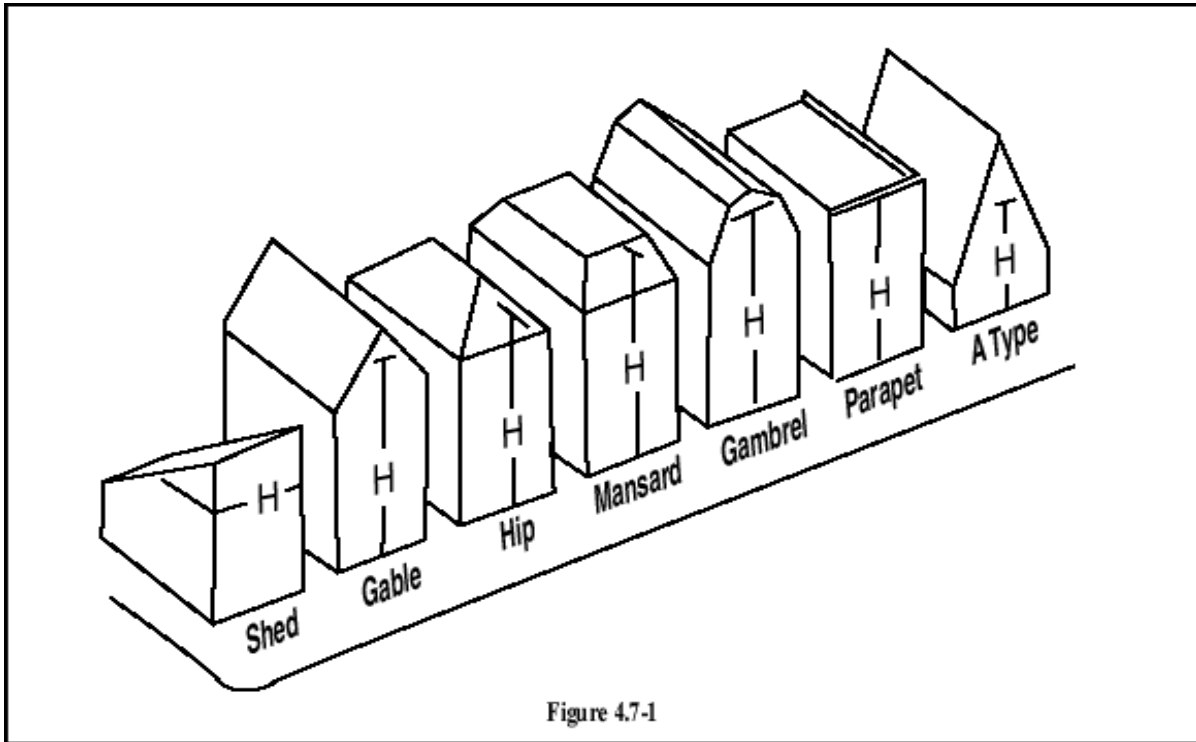
4.7.5.2. Height regulations.

4.7.5.2.1. Building height is measured as the vertical distance between the average natural grade between the lowest and highest grades along the foundation and 1) the average height level between the eaves and ridge line of a gable, hip or gambrel roof; or 2) the highest point of a mansard roof; or 3) the highest point of the coping of a flat roof. (See Figure 4.7-1)

4.7.5.2.2. The construction, maintenance, or establishment of any building, tree, smokestack, chimney, flagpole, wire, tower or other structure or appurtenances thereto, which may constitute a hazard or obstruction to safe air navigation, landing, or take-off of aircraft near an airport, is prohibited. This § 4.7.5.2.2 is not intended to regulate height of structures in the AO Airport Overlay zoning district (see § 4.13). The AO Airport Overlay zone regulations shall govern the height of all structures within the boundaries of the Airport Overlay zoning district.

4.7.5.2.3. Exceptions to Height Restrictions. Zoning district height limits shall not apply to belfries, cupolas, spires, domes, monuments, airway beacons, structures for essential services, windmills, flagpoles, chimneys, chimney flues, ⁽¹⁾church steeples, municipal water towers, or government buildings.

Height limits shall not apply to any bulkhead,



4.8. ⁽¹⁾RESERVED

4.9. PLANNED UNIT DEVELOPMENT (PUD).

4.9.1. PURPOSE

The purpose of the Planned Unit Development district (PUD) is to provide for the orderly development of land with a mix of land uses and intensity. PUD zoning is intended to permit flexibility in the design, construction and processing of residential and non-residential developments of a quality that could not be achieved under conventional zoning approaches. While the conventional zoning districts and the requirements of those districts set forth in the UDO are reasonable, there may be circumstances in which it is in the community's best interests to allow unique and/or creative designs and techniques that:

- 4.9.1.1. promote the most appropriate use of a parcel,
- 4.9.1.2. allow diversification of use,
- 4.9.1.3. facilitate the adequate and economical provision of streets, parks, open space, schools, storm drainage and sewer and water utilities,
- 4.9.1.4. preserve and utilize open space,
- 4.9.1.5. offer recreational opportunities close to residential uses,
- 4.9.1.6. enhance neighborhood appearance,

4.9.2. PROCESSING PROCEDURES.

A PUD shall be considered a conditional zoning district and shall be processed in accordance with § 3.4 of this Ordinance. Applications for PUD are also eligible for the expedited rezoning process as prescribed in § 3.3.

4.9.3. PERMITTED USES.

4.9.3.1. The uses permitted in a PUD district shall be the permitted uses as set forth in the approved site plan.

4.9.3.1.1. The site plan shall designate land use categories consistent with the zoning district classifications of this Ordinance. Within each land use category, proposed uses shall be subject only to the permitted uses in Tables 4.6-1 for each land use category and the maximum density for each land use category in Table 4.7-1. No conditional use permit shall be required for any

conditional use listed for said land use category in Tables 4.6-1 separate from that issued for the PUD itself.

4.9.4. LAND USE COMPOSITION.

4.9.4.1. No site plan for a PUD district shall be approved unless the following minimum percentages of land uses are provided for within the boundaries of the district.

4.9.4.1.1. moderate density residential (4-7 units per acre) = 20%

4.9.4.1.2. high density residential (8 or more units per acre) = 10%

4.9.4.1.3 Open space shall be required in accordance with § 6.5 of this Ordinance.

4.9.5. DESIGN STANDARDS.

4.9.5.1. The land uses within a PUD shall not be subject to any of the dimension and density provision of § 4.7, except that a perimeter setback of 25 feet shall be maintained.

4.9.5.2. PUD designs shall be subject to the recommended design elements for Table 4.9-1. The design elements in Table 4.9-1 are for consideration in the design of a Planned Unit Development and shall be considered as criteria for approval. This is not to state that all of the design elements of Table 4.9-1 shall be included in a PUD, rather all elements shall be considered and those that are considered appropriate and reasonable should be included.

4.9.6. PROFESSIONAL DESIGN TEAM REQUIRED.

An applicant for a PUD approval shall certify, in writing at the time of application, that a member of each of the following professions will be used in the planning and design process for the proposed development:

4.9.6.1 Project planning and design by a licensed North Carolina architect, licensed North Carolina landscape architect planner certified by the American Institute of Certified Planners (AICP), or a registered land surveyor;

4.9.6.2 Landscaping design by a certified nurseryman or licensed North Carolina landscape architect; and,

4.9.6.3 Site engineering by a North Carolina Registered Engineer.

**4.9.7. MODIFICATION OF APPROVED
FINAL SITE PLAN.**

Following approval of the CU district and the Conditional Use Permit, no modification of the land use category designations, design standards, uses, densities or any other condition of the site plan shall be permitted unless a new Conditional Use Permit is approved. However, the Administrator may approve the following modifications in writing without a new site plan:

4.9.7.1. A change in the location of not more than ten percent (10%) of the dwelling units or floor area;

4.9.7.2. A change in the location of any part of open space acreage of not more than ten percent (10%) of the gross acreage;

4.9.7.3. A change in the location of any part of proposed street alignment and lot configuration of not more than ten percent (10%) of the gross acreage;

4.9.7.4. An increase or decrease of any setback by not more than five (5) feet for setbacks of less than fifty (50) feet, or ten percent (10%) for setbacks exceeding fifty (50) feet.

Table 4.9-1. - Recommended Design Elements for a PUD Planned Unit Development

As indicated in § 4.9.1, PUD zoning is intended to permit flexibility in the design, construction and processing of residential, commercial and/or industrial developments of a quality that could not be achieved under conventional zoning concepts. Therefore, the following elements are recommended for consideration in the design of a Planned Unit Development and shall be considered as criteria for approval. This is not to state that all of the following elements shall be included in a PUD, rather all elements shall be considered and those that are considered appropriate and reasonable should be included.

Architectural Elements

- Building height, rhythm, articulation, massing and bulk are compatible with the individual site attributes and are compatible with the surrounding neighborhoods.
- Distinctive architectural details such as covered front entries, covered front porches, door and window details, roof overhangs, and/or parapet walls with cap features shall be provided on each dwelling, or principle structure. A variety of roofing colors, textures, and component shapes including shake shingle, shale, and wood compositions, should be provided.
- Significant architectural differences in the choice of elevations, roof lines, and exterior colors for each residential floor plan should be provided. Not more than three (3) adjacent homes should contain the same front facade, and not more than three (3) adjacent homes should contain the same rear facade visible from arterial street view, on any block front. Homes facing one another (across the street) shall not have the same facade. No adjacent home should contain the same elevation.
- Residential design guidelines are provided, which include a variety of conceptual standard plans, and may include: variation in building setbacks, detached garages, recessed garages if attached to the principal building and fencing alternatives.
- Garage fronts should be de-emphasized and not be the most prominent architectural feature of the house. This should be accomplished by providing side access garages, detached “in-line” garages, and/or L-shaped floor plans on not less than fifty percent (50%) of the lots. Garages should be recessed at least one car length in order to provide interest and relief from the street. The front elevation shall prominently feature an entrance for persons rather than automobiles with the garage area not to exceed forty percent (40%) of the front facades.

Recreation Elements

- Not less than 20 percent (20%) of the residential units are located within 660 feet of a pedestrian, equestrian and bicycle trail.
- Recreation and open space facilities should be aligned with the community parks and open space network, as provided in any locally adopted land use plans or parks and recreation master plans.
- Neighborhood scale recreation facilities and amenities should be provided which are functional, not retention/detention or basin-like in design. Retention basins used in conjunction with recreational facilities or amenities should be designed in accordance with the Stormwater Management Standards of this Ordinance. Such areas should include turf or landscaping within all areas not permanently covered with standing water.
- Gateway treatments may be incorporated at appropriate locations along an open space network.

**Table 4.9-1. - Recommended Design Elements for a PUD Planned Unit Development
(continued)*****Transportation Elements***

- Park-and-ride lots may be incorporated with planned facilities.
- Bicycle lanes should be included along at least seventy percent (70%) of the linear frontage of all planned collector streets.
- Bicycle parking facilities should be provided for all uses except single family detached and duplex residences.
- A customized entrance may be provided at the entry street intersecting a thoroughfare or collector which features a waterfall, sculpture, monument signage, special landscaping, specialty pavement, enhanced fence wall details, boulevard median or other similar treatment.

Landscaping and Buffering Elements

- Higher density or intensity developments abutting lower density or intensity areas include buffering and should substantially mitigate any negative impacts consistent with the Landscaping Standards of this Ordinance.

Other Design Considerations

- Homeowner or property owners associations should be required to maintain all roadway/right-of-way landscaping, pedestrian-bicycle, and equestrian paths (arterial, collector and local as proposed) to the standards of this Ordinance.
- Areas designated for industrial land uses should be designed to create a campus-style environment.

4.10. The TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND).

4.10.1 PURPOSE AND INTENT.

4.10.1.1 The TND option is designed to permit the development of land in a manner consistent with traditional neighborhoods. Its provisions adapt the urban conventions which were normal in the United States from colonial times until the 1940's. The TND ordinance prescribes the following physical conventions:

- The neighborhood is spatially understood and limited in size.
- Residences, shops, workplaces, civic buildings and parks are interwoven within the neighborhood, all in close proximity and connected by a system of sidewalks.
- The hierarchy, design and detailing of streets, serves equitably the needs of pedestrians, bicycles and automobiles.
- Carefully placed civic buildings and squares reinforce the identity of the neighborhood.
- Spatially defined squares and parks are distributed and designed as specialized places for social activity and recreation.
- Civic buildings provide places of assembly for social, cultural and religious activities, becoming symbols of community identity through their architectural clarity.
- Private buildings form a disciplined edge, spatially delineating the public street space and the private block interior.
- Architecture and landscape respond to the unique character of the region and traditional design principles with attention toward a classic sense of timelessness. Designs shall preserve the charm and unity of the neighborhood as a whole.
- By providing a full range of housing types and workplaces, residents of all ages are blended together, forming the bonds of an authentic community.
- The provision of comfortable public spaces such as streets and squares, residents may come to know each other to watch over their collective security.
- By bringing within walking distance most of the activities of daily living, including dwelling, shopping and working, the elderly

and the young gain independence of movement.

- The compact layout of TND reduces the requirements for infrastructure, automobile use and traffic congestion. By organizing appropriate building densities, public transit becomes a viable alternative mode for local travel.

4.10.1.2 For further guidance on the principles set forth herein, the following documents may be useful to the applicant: Reid Ewing, *Best Development Practices: Doing the Right Thing and Making Money at the Same Time* (American Planning Association, 1996 & Florida Department of Community Affairs, 3d. Printing 1997); C. Alexander, et al., *A Pattern Language* (New York: Oxford University Press, 1977); R. Arendt, et al., *Rural by Design* (Chicago: American Planning Association, 1994); P. Calthorpe, *The Next American Metropolis: Ecology, Community, and the American Dream* (New York: Princeton Architectural Press, 1993); Duany, A. & Plater-Zyberk, E., eds., *Towns and Town-Making Principles* (1991); Duany, A. & Plater-Zyberk, E., "Zoning for Traditional Neighborhoods," *Land Development* (a publication of the National Association of Home Builders), vol. 5, no. 2 (Fall 1992), at 20-26; and A. Nelessen, *Visions for a New American Dream: Process, Principles, and Ordinance to Plan and Design Small Communities* (Jan. 1994); Michael Leccese and Kathleen McCormick, *Charter of the New Urbanism* (New York: McGraw-Hill, 1999); Werner Hegemann and Elbert Peets, *Civic Art 1922* (New York, Princeton Architectural Press, reprinted 1988).

4.10.1.3 A set of Restrictive Covenants and Design Codes shall be established for each TND by the Developer and shall be binding on all property owners.

4.10.1.4 A Property Owners Association, shall be formed to guide the growth, enforce the Restrictive Covenants, and govern the citizens of the TND.

4.10.1.5 No parcel shall be removed from an approved and platted TND.

4.10.1.6 This Section contains procedures and standards for the processing of TND's both in new subdivisions and site plan applications on large, undeveloped parcels (referred to as "Greenfield" sites), and on existing parcels surrounded by developed areas (referred to as "Infill" sites).

4.10.2. TND DISTRICT DEFINED.

4.10.2.1. ⁽¹⁾The TND district is hereby established as a floating zone and shall be processed as a zoning map amendment pursuant to § 3.3 and is eligible to be reviewed under the procedures for expedited rezoning pursuant to § 3.3 of this Ordinance.

4.10.2.2. ⁽¹⁾Applications for a TND district shall be classified as either (a) TND GREENFIELD (b) TND INFILL.

4.10.3. APPLICATION PROCEDURES.

4.10.3.1. The approval process for a TND is two steps:

4.10.3.1.1. First, the applicant shall seek a zoning map amendment to a TND district pursuant to § 3.3, with site design and architectural guidelines which supplement this Section.

4.10.3.1.2. Second, the applicant shall seek approval of a TND subdivision in accordance with the guidelines set forth in this Section. Such applications shall be labeled "TND Subdivision" and may be processed and approved in accordance with the subdivision plat approval procedures set forth in Article 6 of this Ordinance.

4.10.4. ⁽²⁾TND GREENFIELD.

All applications for a TND Greenfield site shall comply with the following development parameters.

4.10.4.1. Size and Location of Site.

4.10.4.1.1. The minimum size of the site shall be forty (40) acres and the maximum size shall not exceed six-hundred forty (640) acres excluding areas devoted to greenways. Larger parcels shall be developed as multiple TNDs, each individually subject to all the provisions of this subsection. A TND may be located adjacent to, but shall not be bisected by, a thoroughfare.

4.10.4.1.2. The Site shall be divided into the following subareas:

- A Town Center consisting of civic, retail, office, and multi-family uses. The size of the Town Center is based on the size of the entire site (see § 4.10.7.8.1, below).
- A Neighborhood or series of neighborhoods consisting of blended multi-family and single-family uses, small-scale Retail and workshop uses, and public outdoor gathering places. It is the intent of this Ordinance that all areas within a Neighborhood are within a five-minute walking distance from edge to center (radius of 1320 feet).
- Greenway areas which provide a greenway system for the community, open space for community residents, and natural areas for stormwater management. Greenways may border and/or traverse the TND site.

4.10.4.2. Land Use.

4.10.4.2.1. Carefully blended land uses form the essence of Traditional Neighborhood Development. Uses within different land use categories, may abut at rear lot lines or at side lot lines and facing (subject to subsection 4.10.7.2.2, below). Open space, such as parks, squares, greens and plazas shall be considered similar land uses with all TND use categories.

4.10.4.2.2. The following land use categories may abut at side lot lines or face across a street, square, park or common space:

- Single family may abut multi-family and small scale institutional;
- Multi-family may abut single-family, office, civic, institutional or retail;
- Retail may abut multi-family, office, civic or institutional;
- Retail uses include shops, restaurants, entertainment and lodging.
- Office may abut retail, institutional, civic, or multi-family.
- Institutional may abut single family (if the institutional use is small in scale), multi-family, office, civic or retail.
- Institutional uses include privately owned uses including religious buildings, non-profit institutions, private recreational facilities, clubhouses, museums, cultural societies, visual and performance arts buildings.

(1) City Council approved 9/27/2004

(2) TA-2010-10 – City Council approved 8/23/2010

- Civic may about institutional, multi-family, office or retail.
- Civic uses include governmentally owned or funded uses that include public schools, libraries, post offices, municipal offices and meeting halls. EMS, fire and police stations are also civic uses, but due to noise considerations are more restricted in their location.

4.10.4.2.3. In order to provide a continuous pedestrian transition for residential neighborhoods and commercial areas, retail land use categories shall not be separated from Multi-family or Single-Family land use categories by berms or buffers. Adequate design measures shall be taken to minimize potential use conflicts. Limited fences and walls may be used when other design measures are ineffective.

4.10.4.2.4. Land use for corner lots which front on streets of dissimilar use shall be designated within the more intensive use category.

4.10.4.2.5. Prohibited Uses anywhere within a TND:

- ⁽¹⁾Automatic food and drink machines visible from adjacent public streets;
- ⁽¹⁾Drive-through services other than banking, automated teller machines, laundry services, pharmacies and full service gasoline stations located within an out-parcel directly abutting a major thoroughfare;
- Chemical manufacturing, storage or distribution as a primary use;
- Enameling, painting or plating, except artist's studios;
- Outdoor advertising or billboard as a principal use;
- Carting, moving or hauling terminal are yard, except delivery goods to businesses within a TND;
- Prisons, detention centers or halfway house;
- Manufacture, storage, or disposal of hazardous waste materials;
- Scrap yards;
- Manufactured homes;
- Sand, gravel, or other mineral extraction;
- Kennels;
- Any use or business controlled under the

Adult Entertainment use category;

- Any use which produces any of the adverse impacts defined as prohibited under the definition of Light Industrial Use.

4.10.4.3. Lots and Buildings.

4.10.4.3.1. All lots shall include frontage abutting a street, square or common open space.

4.10.4.3.2. The main entrance of all buildings (excluding outbuildings) shall open to a street, square or common open space of at least 20 feet.

4.10.4.3.3. All uses shall be conducted within completely enclosed buildings, unless otherwise specified herein.

4.10.4.3.4. Building architecture shall be governed by a strict set of Architectural Guidelines, which will encourage home design with a strong orientation to the streetscape. Front or sideyard porches of at least 96 square feet shall be provided on not less than 70% of all dwelling units within the Single-family land use allocation.

4.10.4.3.5. The height of the eave or parapet wall of buildings facing across streets shall be sufficient to achieve an Enclosure Ratio for buildings, excluding buildings which face a Park, Square or common open space (of at least 20' in width), shall conform to the following ratios (the first number is the building height, the second number is the measurement from building face to building face. The ground floor use shall designate the ratio:

- Civic, Retail, Office Uses - 1:3.5
- Multi-family, 1:4
- Single Family Uses shall have their building front elevation set according to a single family "Build-To" line along the frontage established on the approved TND plan. Adjacent houses shall vary their setback slightly (no more than 2 feet) so as not to perfectly align with the adjacent dwelling.

4.10.4.4. Town Center Uses

4.10.4.4.1. At a minimum, the Town Center shall consist of a mix of retail and office uses. Additional uses may include institutional, civic, and multi-family as allowed in Table 4.6-1.

4.10.4.4.2. All structures utilized for non-

residential purposes within or fronting the Town Center, shall conform to the Design and Improvements Standards of § 11.5.2.4, 11.5.2.6, and 11.5.2.7 of the CC District.

4.10.4.5. Street, Alleys, Sidewalks, Street Trees, Street Furnishings and Utilities.

4.10.4.5.1. The Connectivity Ratio set forth in the Article 6 shall apply to the TND.

4.10.4.5.2. The street standards for TND roadways are based on proven techniques for traffic calming and acceptable levels of vehicular circulation. Reduced roadway widths are also based on a comprehensive approach of streets and alleys.

- Neighborhood Center Street:

ROW	60'
BOC	38' w/st. parking
Design Speed	20 mph
Curb Radius	30'
- Neighborhood Street:

ROW	50'
BOC	25'
Design Speed	20 mph
Curb Radius	30'
- Alley:

ROW	20'
Pavement	16'
DS	15 mph
Curb Radius	30' (optional)
- ⁽¹⁾Plaza Street (one way):

ROW	40' (each way w/plaza under HOA ownership and not part of the right-of-way)
BOC*	30' w/ on-street parking (each direction)
	21' w/o on-street parking (each direction)
	Design Speed 20mph
Curb Radius	30'

*On-street parking must be provided on Plaza Streets
- ⁽¹⁾Boulevard Entry (4 lane)

ROW	100' minimum
BOC	28' w/o on-street parking (each direction)
Design Speed	40mph
Curb Radius	30'

4.10.4.5.3. There shall be a continuous network

of alleys to the rear of building lots within the TND, except when topography or physical feature makes impractical and as otherwise permitted herein. Dead end alleys are strongly discouraged, but in no circumstances shall an alley have a dead end length of over 100'.

4.10.4.5.4. An on-site transit stop shall be provided where the proposed TND is within the service area of a City bus system, a Public Transportation Authority or a Regional Public Transportation Authority.

4.10.4.5.5. Sidewalks shall be located on both sides of the street and separated from the roadway by a planting strip and/or designated parallel parking. If a planting strip is provided, it shall be a minimum of 6 feet in width.

4.10.4.5.6. Canopy Street trees shall be planted on both sides of the street and shall be spaced according to species and to the standards established in the landscape section of this ordinance. No understory trees shall be used as street trees. A consistent variety and species of street tree shall be maintained by street, but adjacent streets shall diversify species as a precaution against blight. Street trees planted within the TND commercial district or within an area subject to heavy foot traffic, design measures (such as tree grates) shall be installed as a measure to protect the tree root system.

4.10.4.5.7. Street furnishings shall include but not limited to:

- Commercial Areas: Pedestrian scale decorative street lights, decorative street signs, benches, trash receptacles, water fountain and other appropriate decorative pedestrian oriented features.
- Residential Areas: Pedestrian scale decorative street lights, decorative street signs.

4.10.4.5.8. To the extent possible, underground utilities (and associated pedestals, cabinets, junction boxes and transformers) including electric, cable TV, telephone and natural gas service shall be located within the alley ROW and not along the streetscape frontage. It is assumed that domestic water service and sanitary sewer will serve from the streetscape frontage, but will be located in such a way to cause the least impact

on the planting strip and required street trees. Public Utility Departments, Companies and their contractors shall be required to cooperate with this effort.

4.10.4.6. Parking.

4.10.4.6.1. Except as otherwise provided by this subsection, parking requirements for all uses shall be in accordance with the Article 8 Parking Standards of this Ordinance.

4.10.4.6.2. On street parking is required where a particular land use will generate regular guest or customer parking use. Occasional on-street parking (such as within a single family area) can be accommodated without additional pavement width or delineation.

4.10.4.6.3. On-street parking shall be provided on streets abutting squares, small parks or other urban open spaces.

4.10.4.6.4. For interior commercial parcels, no less than 75% of the parking space shall be located to the rear of the building being served. Commercial parcels fronting on non-pedestrian oriented major arterials may located primary parking lots along this frontage. Where primary parking abuts streets within the interior of the TND, screen walls shall be erected on the frontage line where primary parking lots are located.

4.10.4.6.5. Primary parking lots (over 24 spaces) and parking garages shall not: (1) abut street intersections; (2) be located adjacent to squares or parks; or (3) occupy lots which terminate a street vista.

4.10.4.6.6. Adjacent parking lots shall have vehicular connections from an alley.

4.10.4.6.7. Parking for retail and service uses shall not require on-site parking provided, however, that: (1) the required parking, in accordance with the Parking Standards of this Ordinance, is available within a six-hundred-foot radius of the activity; (2) the total floor space for the individual uses does not exceed twenty-five hundred (2500) square feet of gross floor area; and (3) such uses are restricted to Retail and multi-family areas. Due to the pedestrian nature of the TND, parking requirements for retail, service and institutional uses may be reduced by

25% of any use related parking standards established in Article 8 of this ordinance. On-street parking shall count toward any minimum parking requirements.

4.10.4.6.8. Loading areas shall adjoin alleys or parking areas to the rear of the Principal Building unless otherwise approved on the TND plan.

4.10.4.7. Landscaping and Buffering.

4.10.4.7.1. Except as otherwise provided by this subsection, landscaping requirements for all uses shall be in accordance with the Article 7 Landscaping and Screening Standards of this Ordinance.

4.10.4.7.2. The purpose of this Section is to ensure that trees are used as a design element to provide visual identity to the TND and to reinforce the public function of streets. Street trees shall be planted along all streets at an average center to center spacing based on the mature spread of the particular street tree.

4.10.4.8. Town Center.

⁽¹⁾Land Allocation and Location. The Town Center shall have a minimum area of one square foot per five hundred (500) square feet of gross site area of the entire TND site excluding Greenway areas. Commercial areas shall only be permitted where designated on the Site Plan. A town center shall be located only on a street with adequate capacity to serve it. Example: A proposed TND has a gross site area of 300 acres, with an additional 8 acres of greenway running through the site. The minimum square footage for the Town Center is 26,136 square feet (13,068,000 square feet gross site area / 500 square feet per gross site area).

4.10.4.8.1. Non-residential Uses. The goal of the Town Center is to incorporate a mixture of small-scale retail, office, and neighborhood service uses into the TND environment. However, larger anchor stores or uses may be included as part of an overall commercial package. Such proposals will be evaluated on a case-by case basis by the Planning & Zoning Commission.

4.10.4.9. Open Space.

4.10.4.9.1. The proposed development shall include at least the amount of open space as

prescribed in Table 4.10-1. Open Space shall comply with the design requirements of Column (F) of Table 4.10-1. ⁽¹⁾Activities permitted within designated Open Space shall include those activities and their customary appurtenant improvements supporting open space uses as stated in the definition of Open Space shown in Appendix A.

4.10.4.10. TND Site Plan.

4.10.4.10.1. In addition to the preliminary plat and conditional use requirements specified in Appendix B, the TND Site plan shall also include all aspects of the spatial relationships proposed for the Traditional Neighborhood Development including:

- layout and dimensions of lots, setbacks (build-to-lines) roadways, alleys, underground utilities, open spaces and all information required to define the relationships within the streetscape;
- designated land uses and associated building heights with proposed streetscape enclosure ratios;
- proposed streetscape furnishings including the pedestrian lighting plan;
- proposed street tree landscape plan;
- outline covenants and design codes;

4.10.5. TND INFILL.

All applications for a TND Infill site shall comply with the following development parameters:

4.10.5.1. Size and Location of Site. The maximum size of the site shall not exceed forty (40) acres, except as provided herein. The maximum size may be exceeded for sites zoned CC when the Application for Development Approval is filed.

4.10.5.2. Land Allocation and Density. A single land use category, as set forth in Table 4.10-1, may be approved as a TND Infill site. The requested densities shall conform to § Table 4.10-1.

4.10.5.3. Land Use.

4.10.5.3.1. The standards pertaining to abutting uses relate to the land use category of adjacent uses. The land use category may be determined from Table 4.11-1, below, where an adjacent site is developed as a TND Infill site, or from the Table below where the adjacent site is developed or within another zoning category. Uses listed in

the Use Matrix within the zoning districts set forth in Column B, below, are within the “same land use category” as the corresponding TND land use category in Column A.

Table 4.11-1	
(A) TND Land Use Category	(B) Zoning Category
Civic	C-1, C-2
Retail	B-1, C-1
Office	C-2
Multi-family	RV, RC
Single-family	RE, RL, RM-1, RM-2

4.10.5.3.2. Carefully blended land uses form the essence of Traditional Neighborhood Development. Uses within different land use categories, may abut at rear lot lines or at side lot lines and facing (subject to subsection 4.10.8.3.3, below). Open space, such as parks, squares, greens and plazas shall be considered similar land uses with all TND use categories.

4.10.5.3.3. The following land use categories may abut at side lot lines or face across a street, square, park or common space:

- Single family may abut multi-family and small scale institutional;
- Multi-family may abut single-family, office, civic, institutional or retail;
- Retail may abut multi-family, office, civic or institutional. (Retail uses include shops, restaurants, entertainment and lodging.);
- Office may abut retail, institutional, civic, or multi-family.
- Institutional may abut single family (if the institutional use is small in scale), multi-family, office, civic or retail. (Institutional uses include privately owned uses including religious buildings, non-profit institutions, private recreational facilities, clubhouses, museums, cultural societies, visual and performance arts buildings.);
- Civic may abut institutional, multi-family, office or retail. (Civic uses include governmentally owned or funded uses that include public schools, libraries, post offices, municipal offices and meeting halls. EMS, fire and police stations are also civic uses, but due to noise considerations are more restricted in their location.).

4.10.5.3.4. In order to provide a continuous pedestrian transition for residential neighborhoods and commercial areas, retail land use categories shall not be separated from Multi-family or Single-Family land use categories by berms or buffers. Adequate design measures shall be taken to minimize potential use conflicts. Limited fences and walls may be used when other design measures are ineffective.

4.10.5.3.5. Land use for corner lots which front on streets of dissimilar use shall be designated within the more intensive use category.

4.10.5.3.6. Prohibited Uses. Prohibited uses anywhere within a TND include:

- ⁽¹⁾Automatic food and drink machines visible from adjacent public streets;
- ⁽¹⁾Drive-through services other than banking, automated teller machines, laundry services, pharmacies and full service gasoline stations located within an out-parcel directly abutting a major thoroughfare;
- Chemical manufacturing, storage or distribution as a primary use;
- Enameling, painting or plating, except artist's studios;
- Outdoor advertising or billboard as a principal use;
- Carting, moving or hauling terminal are yard, except delivery goods to businesses within a TND;
- Prisons, detention centers or halfway house;
- Manufacture, storage, or disposal of hazardous waste materials;
- Scrap yards;
- Manufactured homes;
- Sand, gravel, or other mineral extraction;
- Kennels;
- Any use or business controlled under the Adult Entertainment use category;
- Any use which produces any of the adverse impacts defined as prohibited under the definition of Light Industrial Use.

4.10.5.4. Lots and Buildings.

4.10.5.4.1. All lots shall include frontage abutting a street, square or common open space.

4.10.5.4.2. The main entrance of all buildings (excluding outbuildings) shall open to a street, square or common open space of at least 20 feet.

4.10.5.4.3. All uses shall be conducted within completely enclosed buildings, unless otherwise specified herein.

4.10.5.4.4. Building architecture shall be governed by a strict set of Architectural Guidelines, which will encourage home design with a strong orientation to the streetscape. Front or sideyard porches of at least 96 square feet shall be provided on not less than 70% of all dwelling units within the Single-family land use allocation.

4.10.5.4.5. The height of the eave or parapet wall of buildings facing across streets shall be sufficient to achieve an Enclosure Ratio for buildings, excluding buildings which face a Park, Square or common open space (of at least 20' in width), shall conform to the following ratios (the first number is the building height, the second number is the measurement from building face to building face. The ground floor use shall designate the ratio:

- Civic, Retail, Office Uses – 1:3.5
- Multi-family, 1:4
- Single Family Uses shall have their building front elevation set according to a single family "Build-To" line along the frontage established on the approved TND plan. Adjacent houses shall vary their setback slightly (no more than 2 feet) so as not to perfectly align with the adjacent dwelling.

4.10.5.5. Retail and Office Uses.

4.10.5.5.1. Due to the limited scale of the infill TND, Retail and Office uses should be located at the edges of the TND development, but spatially well connected to the TND residential areas.

4.10.5.5.2. Retail and Office use buildings within the TND shall conform to §§ 11.5.2.4 and 11.5.2.7 of the CC District supplemental design standards. Retail and Office use buildings shall conform to §§ 11.5.2.4, 11.5.2.5, 11.5.2.6, and 11.5.2.7 of the CC District supplemental design standards.

4.10.5.6. Street, Alleys, Sidewalks, Street Trees, Street Furnishings and Utilities.

4.10.5.6.1. The Connectivity Ratio set forth in the Article 10 shall apply to the TND.

4.10.5.6.2. The street standards for TND roadways are based on proven techniques for traffic calming and acceptable levels of vehicular circulation. Reduced roadway widths are also based on a comprehensive approach of streets and alleys.

- Neighborhood Center Street:

ROW	60'
BOC	38' w/st. parking
Design Speed	20 mph
Curb Radius	30'
- Neighborhood Street:

ROW	50'
BOC	25'
Design Speed	20 mph
Curb Radius	30'
- Alley:

ROW	20'
Pavement	16'
DS	15 mph
Curb Radius	30' (optional)
- ⁽¹⁾Plaza Street (one way):

ROW	40' (each way w/plaza under HOA ownership and not part of the right-of-way)
BOC*	30' w/ on-street parking (each direction)
	21' w/o on-street parking (each direction)
Design Speed	20mph
Curb Radius	30'

*On-street parking must be provided on Plaza Streets
- ⁽¹⁾Boulevard Entry (4 lane)

ROW	100' minimum
BOC	28' w/o on-street parking (each direction)
Design Speed	40mph
Curb Radius	30'

4.10.5.6.3. There shall be a continuous network of alleys to the rear of building lots within the TND, except when topography or physical feature makes impractical and as otherwise permitted herein. Dead end alleys are strongly discouraged, but in no circumstances shall an alley have a dead end length of over 100'.

4.10.5.6.4. An on-site transit stop shall be provided where the proposed TND is within the service area of a City bus system, a Public Transportation Authority or a Regional Public Transportation Authority.

4.10.5.6.5. Sidewalks shall be located on both sides of the street and separated from the roadway by a planting strip and/or designated parallel parking. If a planting strip is provided, it shall be a minimum of 6 feet in width.

4.10.5.6.6. Canopy Street trees shall be planted on both sides of the street and shall be spaced according to species and to the standards established in the landscape section of this ordinance. No understory trees shall be used as street trees. A consistent variety and species of street tree shall be maintained by street, but adjacent streets shall diversify species as a precaution against blight. Street trees planted within the TND commercial district or within a area subject to heavy foot traffic, design measures (such as tree grates) shall be installed as a measure to protect the tree root system.

4.10.5.6.7. Street furnishings shall include but not limited to:

- Commercial Areas: Pedestrian scale decorative street lights, decorative street signs, benches, trash receptacles, water fountain and other appropriate decorative pedestrian oriented features.
- Residential Areas: Pedestrian scale decorative street lights, decorative street signs.

4.10.5.6.8. To the extent possible, underground utilities (and associated pedestals, cabinets, junction boxes and transformers) including electric, cable TV, telephone and natural gas service shall be located within the alley ROW and not along the streetscape frontage. It is assumed that domestic water service and sanitary sewer will serve from the streetscape frontage, but will be located in such a way to cause the least impact on the planting strip and required street trees. Public Utility Departments, Companies and their contractors shall be required to cooperate with this effort.

4.10.5.7. Parking.

4.10.5.7.1. Except as otherwise provided by

this subsection, parking requirements for all uses shall be in accordance with the Article 8 Parking Standards of this Ordinance.

4.10.5.7.2. On street parking is required where a particular land use will generate regular guest or customer parking use. Occasional on-street parking (such as within a single family area) can be accommodated without additional pavement width or delineation.

4.10.5.7.3. On-street parking shall be provided on streets abutting squares, small parks or other urban open spaces.

4.10.5.7.4. For interior commercial parcels, no less than 75% of the parking space shall be located to the rear of the building being served. Commercial parcels fronting on non-pedestrian oriented major thoroughfares may located primary parking lots along this frontage. Where primary parking abuts streets within the interior of the TND, screen walls shall be erected on the frontage line where primary parking lots are located.

4.10.5.7.5. Primary parking lots (over 24 spaces) and parking garages shall not: (1) abut street intersections; (2) be located adjacent to squares or parks; or (3) occupy lots which terminate a street vista.

4.10.5.7.6. Adjacent parking lots shall have vehicular connections from an alley.

4.10.5.7.7. Parking for retail and service uses shall not require on-site parking provided, however, that: (1) the required parking, in accordance with the Parking Standards of this Ordinance, is available within a six-hundred-foot radius of the activity; (2) the total floor space for the individual uses does not exceed twenty-five hundred (2500) square feet of gross floor area; and (3) such uses are restricted to Retail and multi-family areas. Due to the pedestrian nature of the TND, parking requirements for retail, service and institutional uses may be reduced by 25% of any use related parking standards established in Article 8 of this ordinance. On-street parking shall count toward any minimum parking requirements.

4.10.5.7.8. Loading areas shall adjoin alleys or parking areas to the rear of the Principal Building unless otherwise approved on the TND plan.

4.10.5.8. Landscaping and Buffering.

4.10.5.8.1. Except as otherwise provided by this subsection, landscaping requirements for all uses shall be in accordance with the Article 7 Landscaping and Screening Standards of this Ordinance.

4.10.5.8.2. The purpose of this Section is to ensure that trees are used as a design element to provide visual identity to the TND and to reinforce the public function of streets. Street trees shall be planted along all streets at an average center to center spacing based on the mature spread of the particular street tree.

4.10.5.9. Open Space.

4.10.5.9.1. The proposed development shall include at least the amount of open space as prescribed in Table 4.10-1. Open Space shall comply with the design requirements of Column (F) of Table 4.10-1. ⁽¹⁾Activities permitted within designated Open Space shall include those activities and their customary appurtenant improvements supporting open space uses as stated in the definition of Open Space shown in Appendix A.

4.10.5.10. TND Site Plan.

4.10.5.10.1. In addition to the preliminary plat and conditional use requirements specified in Appendix B, the TND Site plan shall also include all aspects of the spatial relationships proposed for the Traditional Neighborhood Development including:

- layout and dimensions of lots, setbacks (build-to-lines) roadways, alleys, underground utilities, open spaces and all information required to define the relationships within the streetscape;
- designated land uses and associated building heights with proposed streetscape enclosure ratios;
- proposed streetscape furnishings including the pedestrian lighting plan;
- proposed street tree landscape plan;
- an outline of covenants and design codes.

Table 4.10-1 Design Standards for a TND

(A) OPEN SPACE USES	(B) Min. Land Alloc.	(C) Max. Land Alloc.	(D) Min. Floor Area Ratio (FAR)	(E) Max. FAR	(F) Design Standards
<i>Open Space</i>	Greater of 5% Gross Land Area (GLA) or 5 acres	40% GLA	n/a	n/a	Open space should be bounded by streets on at least 25% of their perimeter.
<i>Square</i>	15,000 sf	70,000 sf.	n/a	n/a	<p>Square shall count toward required open space</p> <p>A minimum ½ acre square should front or be located within the Town Center.</p> <p>Squares should adjoin streets on at least two sides.</p> <p>Squares should be distributed throughout the TND so as all dwelling units are located within 1,000 feet (walking distance) of a square.</p>
<i>Greenbelts</i>	may be provided at the perimeter of a TND if adjacent land is incompatible	n/a	n/a	n/a	<p>Greenbelts differ from other types of open space in that existing natural vegetation and wildlife is undisturbed except for bikeways and walking trails.</p> <p>Greenbelts should average at least 100 feet in width and not less than 25 feet at any point.</p>
<i>Civic Uses:</i> <ul style="list-style-type: none"> • <i>clubhouses</i> • <i>meeting halls</i> • <i>libraries</i> • <i>schools</i> • <i>child care centers</i> • <i>police & fire stations</i> • <i>museums</i> • <i>post office</i> • <i>religious uses</i> • <i>cultural societies</i> • <i>visual or performance arts uses</i> • <i>government buildings</i> 	2% GLA	40% GLA	0.4	1.0	<p>Civic uses should be located in prominent or central locations (most often the Town Center).</p> <p>Civic uses should be located within 500 feet of a square.</p> <p>For the purposes of this TND section, FAR shall include:</p> <ul style="list-style-type: none"> • all the land for the building, landscaping and parking • all the uses in a mixed use building <p>Civic uses should be designed to spatially reinforce the streetscape standards found elsewhere in this TND Article.</p> <p>Civic buildings should also functionally support the pedestrian-friendly character of a TND.</p>

Table 4.10-1 Design Standards for a TND (continued)

NON-RESIDENTIAL USES	Min. Land Alloc.	Max. Land Alloc.	Min. Floor Area Ratio (FAR)	Max. FAR	Design Standards
Retail Uses <i>includes lodging and commercial uses as permitted for the C-1 district in Table 4.6-1</i>	2% GLA	40% GLA	0.4	1.0	Not less than ½ of retail buildings should have residential uses above. Retail uses should be designed to spatially reinforce the streetscape standards found elsewhere in this TND Article. Retail buildings should also functionally support the pedestrian-friendly character of a TND.
Office Uses <i>includes office uses as permitted for the B-1 district in Table 4.6-1</i>	2% GLA	40% GLA	0.4	1.0	Office uses should be designed to spatially reinforce the streetscape standards found elsewhere in this TND Article. Office buildings should also functionally support the pedestrian-friendly character of a TND.
RESIDENTIAL USES	Min. Land Alloc.	Max. Land Alloc.	Min. Density (Number of Dwelling units)	Max. Density	Design Standards
Multi-family Uses <i>(also includes limited office uses up to 1,000 sq. ft. and congregate living facilities)</i>	10% GLA	40% GLA	8.0	30.0	Multi-family uses should be designed to spatially reinforce the streetscape standards found elsewhere in this TND Article. Balconies overlooking the streetscape are encouraged.
Single-family Uses <i>(also includes home occupations and accessory dwellings/structures)</i>	n/a	60% GLA	5.0	11.0	One carriage house or guest house is permitted per lot. Single family dwellings should be designed in such a manner that is pedestrian-friendly with a strong orientation to the streetscape, especially the sidewalk. Porches overlooking the streetscape are encouraged.

4.11. TRANSIT-ORIENTED DEVELOPMENT (TOD) DISTRICT.

4.11.1. PURPOSE.

The Transit-Oriented Development zone encourages a mixture of residential, commercial, and employment opportunities within a specified radius of identified light rail stations or other public transit stations. The zone allows for a more intense and efficient use of land at increased densities for the mutual re-enforcement of public investments and private development. Uses and development are regulated to create a more intense built-up environment, oriented to pedestrians, to provide a density and intensity that is transit supportive. The development standards of the zone also are designed to encourage a safe and pleasant pedestrian environment near transit stations by encouraging an intensive area of shops and activities, by encouraging amenities such as benches, kiosks, and outdoor cafes, and by limiting conflicts between vehicles and pedestrians. It is the intent of this Section that a TOD district be restricted to areas within one-half (½) of a mile of a transit station, which area is equivalent to a 10-minute walking distance.

4.11.2. CLASSIFICATION OF TOD SUBAREAS.

4.11.2.1. The TOD shall be divided into two subdistricts known as the “TOD Core” (“TOD-C”) and the “TOD Periphery” (TOD-P), which shall be considered separate zoning districts subject to the requirements set forth in this Section. The requirements of this section shall apply to both the TOD-C and TOD-P subdistricts, unless otherwise provided.

4.11.2.2. Following any rezoning to a TOD District, the Official Zoning Map shall be amended to denote the following subdistricts:

- All areas within one-quarter (¼) of a mile of a transit station shall be classified as “TOD-C.”
- All areas between one-quarter (¼) of a mile and one-half (½) of a mile from a transit station shall be classified as “TOD-P.” No land area shall be zoned “TOD-P” unless it adjoins an area zoned “TOD-C.”

4.11.3. USE REGULATIONS.

4.11.3.1. Any use permitted in the CC zoning district may be permitted within the TOD-C or the TOD-P districts, except as provided in § 4.11.3.2 below.

4.11.3.2. The following set forth in Table 4.11-1 are prohibited within either the TOD-C or the TOD-P subdistricts. Any use listed under Column (B) of Table 4.11-1 is prohibited in the TOD-C subdistrict. Any use listed in Column (C) of Table 4.11-1 is prohibited in the TOD-P subdistrict.

4.11.4. DEVELOPMENT REGULATIONS.

4.11.4.1. Floor Area and Density.

The floor area ratio and density within the TOD-C and TOD-P subdistricts shall not be less than that set forth in Table 4.11-2.

4.11.4.2. Parking Standards.

4.11.4.2.1. Minimum Number. On the portion of a site within 500 feet of a light rail alignment, the minimum number of parking spaces is 50 percent of the required parking spaces required by the Parking Standards of this Ordinance.

4.11.4.2.2. Maximum Number. The maximum number of parking spaces shall not exceed that set forth in Article 8 Parking Standards of this Ordinance.

4.11.4.3. Ground Floor Design.

All uses within the TOD district shall conform to the Design and Improvements Standards of § 11.5.2.1, 11.5.2.4, 11.5.2.5, 11.5.2.6, and 11.5.2.7 of the CC District.

4.11.4.4. Pedestrian Connectivity.

4.11.4.5. New retail, office and institutional buildings within five hundred (500) feet of a major transit stop shall provide for convenient pedestrian access to transit through the measures listed in § 4.11.6.4.4 Retail and Workshop Uses, and as listed below.

- Walkways shall be provided which connect building entrances and streets adjoining the site.
- Pedestrian connections to adjoining properties shall be provided except where such a connection is impracticable due to unique topography. Pedestrian connections shall connect the on-site circulation system to existing or proposed streets, walkways, and driveways that abut the property. Where

adjacent properties are undeveloped or have potential for redevelopment, streets, accessways and walkways on site shall be laid out or stubbed to allow for extension to the adjoining property.

- A direct pedestrian connection shall be provided between the transit stop and building entrances on the site;
- An easement or dedication for a passenger shelter shall be provided if requested by the transit provider.

Table 4.11-1 Prohibited Uses in a TOD		
(A) Use	(B) TOD-C	(C) TOD-P
Vehicle Repair	prohibited	prohibited
Drive-through facilities	prohibited	prohibited
Exterior display of goods and exterior storage on the portion of a site within 500 feet of a public transit station. Outdoor seating for restaurants and pedestrian-oriented accessory uses, such as flower, food or drink stands, are exempt from this requirement.	prohibited	prohibited
Sale or lease of consumer vehicles, including passenger vehicles, motorcycles, light and medium trucks, travel trailers, and other recreational vehicles. Offices for the sale or lease of vehicles, where the vehicles are displayed or stored outside of the TOD, are allowed.	prohibited	prohibited
Single-family detached dwelling units	prohibited	allowed
Commercial parking, surface or structured (located within 200 feet of the transit station)	prohibited	allowed
Other surface Parking	prohibited	prohibited

Table 4.11-2 Density and Floor Area Ratio within a TOD				
	Density (residential units per acre)		Floor Area Ratio (nonresidential uses)	
	Minimum	Maximum	Minimum	Maximum
TOD-C				
Parcels, 2 acres or greater	16	20	0.70	1.20
Parcels, less than 2 acres	12	16	0.50	1.00
TOD-P				
Parcels, 2 acres or greater	12	16	0.50	1.00
Parcels, less than 2 acres	8	12	0.30	0.60

4.12. (RESERVED)

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4.13. AIRPORT OVERLAY (AOD) DISTRICT.

4.13.1. PURPOSE.

This district is established to prevent the creation or establishment of obstructions or land uses that are hazards to air navigation, thereby protecting the lives and property of the users of the Concord Regional Airport, the property and occupants of land in the vicinity and the public investment in the airport. This district is further intended to provide for the safe landing, take-off, and maneuvering of aircraft in accordance with Federal Aviation Administration (FAA) standards.

4.13.2. DEFINITIONS.

The words, terms and phrases set forth herein shall have the meanings prescribed below provided, however, that any words, terms or phrases not included below shall have the meanings prescribed by Appendix A to this Ordinance.

Airport - The Concord Regional Airport.

Airport Elevation - The highest point of an airport's usable landing area measured in feet from mean sea level, or for the purpose of these regulations, 690 feet above mean sea level for the Concord Regional Airport.

Airport Hazard - Any structure or object of natural growth located on or in the vicinity of a public airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.

Approach, Transitional, Horizontal and Conical Zones - These zones apply to the area under the approach, transitional, horizontal and conical surfaces defined in Federal Aviation Regulations (FAR) Part 77.

Critical Zone - A rectangular-shaped zone located directly off the end of a runway's primary surface, beginning two hundred feet (200') from the end of the pavement, which is critical to aircraft operations in that it is more apt to have accidents within it because of the take-off and landing mode of aircraft in that particular area.

Height - For the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation, unless otherwise specified.

Nonconforming Use - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of these regulations, or any amendment thereto.

Nonprecision Instrument Runway - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment for which a straight-in nonprecision instrument approach procedure has been approved or planned and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.

Person - An individual firm partnership, corporation, company, association, joint stock association or governmental entity. It includes a trustee, receiver, assignee or similar representative of any of them.

Precision Instrument Runway - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an FAA approved airport layout plan; a military service's approved military layout plan; any other FAA planning document, or military service's military airport planning document.

Primary Surface - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface of a runway will be width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway center line.

Runway - A defined area on an airport prepared for landing and takeoff of aircraft along its length

Structure - An object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, earth formations and overhead transmission lines.

Tree - Any object of natural growth.

4.13.3. LOCATION.

The AO Overlay District shall overlap and overlay the base zoning districts. The former City of Concord Airport Overlay District (AO) designated pursuant to the former City of Concord Zoning Ordinance § 790, is hereby designated as the AO Overlay District. Said overlay district may be expanded by adding additional land area from time to time by an amendment to this Ordinance.

4.13.4. PRINCIPAL AND ACCESSORY USES.

Permitted principal uses, conditional uses and accessory uses shall be those within the underlying zoning district as set forth in Table 4.6-1, provided that no use shall be made of land or water within any zone established by these regulations in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, attract birds or other concentrations of wildlife or otherwise in any way create a hazard or endanger the landing, take-off or maneuvering of aircraft intending to use the airport.

4.13.5. USE RESTRICTIONS.

Notwithstanding any other provisions of these regulations, no use may be made of land or water within any zone established by these regulations in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, attract birds or other concentrations of wildlife or otherwise in any way create a hazard or endanger the landing, take-off or maneuvering of aircraft intending to use the airport.

4.13.6. AREA REGULATIONS.

Dimensional requirements such as lot size and

building depth shall be governed by the underlying zoning districts. Height requirements shall be governed by the General Development Standards § 4.13.7, below, but in no event shall the height of any structure exceed the maximum height permitted by the underlying zoning district.

4.13.7. GENERAL DEVELOPMENT STANDARDS.

In order to carry out the provisions of these regulations, there are hereby created and established within the Concord Regional Airport. Such zones are shown on the Official Concord Regional Airport Hazard Zoning Map which is attached to these regulations and made a part hereof. An area located in more than one of the following zones shall be subject to the Airport Overlay District certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones and conical zones, as they apply to the more restrictive height limitation. The various zones are hereby established and defined in Column (B) of Table 4.13-1. Except as otherwise provided in these regulations, no structure or tree shall be erected, altered, allowed to grow or be maintained in any of the zones created by these regulations to a height in excess of the applicable height limit herein established for such zone. Unless otherwise specified, the height shall be measured from mean sea level. Such applicable height limitations are hereby established for each of the zones in Column (C) of Table 4.13-1.

Table 4.13-1

(A) ZONE	(B) DESCRIPTION	(C) HEIGHT RESTRICTION
PRECISION INSTRUMENT RUNWAY APPROACH ZONE	The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface, its center line being the continuation of the center line of the runway.	Slopes upward 50 feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line, then at a slope of 40:1 for an additional 40,000 feet.
LOCAL BUFFER APPROACH ZONE	The extent of this zone coincides with the PRECISION INSTRUMENT RUNWAY APPROACH ZONE as described above.	Uses shall not exceed the maximum height specified for the PRECISION INSTRUMENT RUNWAY APPROACH ZONE less ten (10) feet on southern approach only. Uses encroaching into this zone shall be allowed only as conditional uses, and shall not be constructed, erected, or otherwise established unless and until a conditional use permit has been issued.
TRANSITIONAL ZONES	These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward at 90-degree angles to the runway center line and the runway center line extended a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional zones for those portions of the precision approach zones, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach zones and at 90-degree angles to the extended runway center line.	Slopes upward and outward seven feet horizontally for each foot vertically beginning at all the sides of and at the same elevation as the primary surface and the approach zones and extending to a height of 150 feet above the airport elevation, or 840 feet above mean sea level. In addition to the foregoing, there are established height limits sloping upward and outward seven feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach zones and extending to where they intersect the conical surface. Where the precision instrument run approach zone projects beyond the conical zone, height limits sloping upward and outward seven feet horizontally for each foot vertically shall be maintained beginning at the sides of and at the same elevation as precision instrument runway approach surface and extending to a horizontal distance of 5,000 feet from the edge of the approach surface measured at 90-degree angles to the extended runway center line.
HORIZONTAL ZONE	The horizontal zone is hereby established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connection the adjacent arcs by drawing lines tangent to those arcs.	One hundred fifty feet about the airport elevation or a height of 840 feet above mean sea level.
CONICAL ZONE	The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.	Slopes upward and outward 20 feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation, or 1,040 feet above mean sea level.

4.13.8. NONCONFORMING USES.

4.13.8.1. The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of these regulations, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these regulations, and is diligently prosecuted.

4.13.8.2. No zoning clearance permit shall be granted that would allow the expansion of a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of these regulations when the application for a permit is made.

4.13.8.3. Whenever the Concord Regional Airport Aviation Director determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated or decayed, no zoning clearance permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

4.13.8.4. Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Concord Regional airport Aviation Director to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the City of Concord.

4.13.9. PERMITS.

4.13.9.1. No material change shall be made in the use of land and no structure or tree shall be erected, altered, planted or otherwise established in any zone hereby created unless a zoning clearance permit therefore shall have been applied for and granted.

4.13.9.2. Each application for a zoning clearance permit shall indicate the purpose of which the permit

is desired with sufficient particulars to determine whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

4.13.9.3. No zoning clearance permit shall be granted that would allow the establishment or creation of an airport hazard when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

4.13.9.4. Any zoning clearance permit granted may, if such action is deemed advisable to effectuate the purpose of these regulations and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the City of Concord, at the owner's expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

4.13.10. VARIANCES.

4.13.10.1. Any persons desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Ordinance, may apply to the Board of Adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of the Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Aviation Director for advice as to the aeronautical effects of the variance. If the Aviation Director does not respond to the application within 30 days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

4.13.10.2. Any variance granted may, if such action is deemed advisable to effectuate the purpose of

these regulations and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the City of Concord, at the owner's expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

4.13.11. ENFORCEMENT.

4.13.11.1. It shall be the duty of the Concord Regional Aviation Director to administer and enforce the regulations prescribed herein. Applications for approval shall be made to the Aviation Director upon a form furnished by the Director. Applications required by these regulations to be submitted to the Aviation Director shall be promptly considered and granted or denied by him. In instances where zoning clearance permits are required, approval shall be secured from the Aviation Director prior to issuance of a zoning clearance permits. Applications for variances shall be filed with the Administrator in accordance with Section 3.7 of this Ordinance.

4.13.12. APPEALS.

4.13.12.1. Any person aggrieved or any taxpayer affected by any decision of the aviation Director made in his administration of these regulations may appeal to the Board of Adjustment in accordance with § 3.7 of this Ordinance and NCGS § 63-33(4).

4.13.13. PENALTIES.

4.13.13.1. The Administrator is hereby authorized to commence and proceed to prevent, restrain, correct or abate any violation of this § 4.13 pursuant to § 1.6 of this Ordinance.

4.14. FLOODPLAIN PROTECTION OVERLAY (FPOD) DISTRICT.

4.14.1. FINDINGS OF FACT.

4.14.1.1. The flood prone areas within the jurisdiction of City of Kannapolis are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

4.14.1.2. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas by uses vulnerable to floods or other hazards.

4.14.2. STATEMENT OF PURPOSE.

It is the purpose of this Floodplain Overlay District to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- Restrict and prohibit uses that are dangerous to health, safety and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- Control filling, grading, dredging and all other development that may increase erosion or flood damage; and
- Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

4.14.3. OBJECTIVES OF FLOODPLAIN OVERLAY DISTRICT

The objectives of this Section 4.14 are to:

- Protect human life and safety, health;

- Minimize expenditure of public money for costly flood control projects;
- Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- Minimize prolonged business losses and interruptions;
- Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, cable, sewer lines, streets and bridges located in flood prone areas;
- Help maintain a stable tax base by providing for the sound use and development of floodprone areas; and
- Ensure that potential home buyers are aware that property is in a Special Flood Hazard Area.

4.14.4. LANDS TO WHICH THIS ARTICLE APPLIES.

This Section 4.14 shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs), of the City of Kannapolis and within the jurisdictions of any other community whose governing body agrees, by resolution, to such applicability.

4.14.5. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Cabarrus County dated November 5, 2008, which are adopted by reference and declared to be a part of this Section 4.14 and shall constitute the official boundaries of the Floodplain Overlay District.

4.14.6. COMPLIANCE WITH THIS ORDINANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this Section 4.14 and other applicable regulations.

4.14.7. ABROGATION AND GREATER RESTRICTIONS.

This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed

restrictions. However, where this Section 4.14 and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

4.14.8. INTERPRETATION AND APPLICATION OF SECTION 4.14.

In the interpretation and application of this Section 4.14 all provisions shall be:

- Considered as minimum requirements;
- Liberally construed in favor of the City; and
- Deemed neither to limit nor repeal any other powers granted under State statutes.

4.14.9. PENALTIES FOR VIOLATION.

Violation of the provisions of this Section 4.14 or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this Section 4.14 or fails to comply with any of its requirements shall, upon conviction thereof, be punished in accordance with Section 1.6 of this Ordinance. Nothing contained in this Section shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

4.14.10. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this Section 4.14 is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Section 4.14 does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Section 4.14 shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Section 4.14 or any administrative decision made pursuant to this Section 4.14.

4.14.11. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The City's Planning Director or his /her designee, hereinafter referred to as the Floodplain Administrator, is hereby appointed to administer and implement the provisions of this Section.

4.14.12. DUTIES OF ADMINISTRATOR

The Floodplain Administrator shall perform, but not be limited to, the following duties:

4.14.12.1. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Section have been satisfied.

4.14.12.2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.

4.14.12.3. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

4.14.12.4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

4.14.12.5. Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of this § 4.14.26 are met.

4.14.12.6. Obtain actual elevation, in relation to mean sea level, of the reference level, including the basement, and all attendant utilities of all new or substantially improved structures, in accordance with 4.14.14.

4.14.12.7. Obtain actual elevation, in relation to mean sea level, to which the new or substantially improved structures and utilities have been floodproofed, in accordance with 4.14.14.

4.14.12.8. Obtain actual elevation, in relation to mean sea level, of all public utilities in accordance with the provisions of 4.14.14.

4.14.12.9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or surveyor in accordance with 4.14.14 and 4.14.19.4.

4.14.12.10.Where interpretation is needed as to the exact location of boundaries of the areas of the Special Flood Hazard Areas, floodways, or non-encroachment areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 3.7 of this Ordinance.

4.14.12.11.When Base Flood Elevation (BFE) data has not been provided in accordance with Section 4.14.5 herein, obtain, review and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State or other source in order to administer the provisions of this Ordinance.

4.14.12.12.When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with 4.14.5, obtain review, and reasonable utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Ordinance.

4.14.12.13.When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

4.14.12.14.Permanently maintain all records to the administration of this Section and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

4.14.12.15.Make on-site inspections of work in progress. .

4.14.12.16.Issue stop-work orders as required.

4.14.12.17.Revoke floodplain development permits as required.

4.14.12.18.Make periodic inspections throughout the Special Flood Hazard Areas within the

jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

4.14.12.19.Follow through with corrective procedures of 4.14.16.

4.14.12.20.Review, provide input, and make recommendations for variance requests.

4.14.12.21.Maintain a current map repository to include, but not limited to, FIS Report, FIRM and other official flood maps and studies adopted in accordance with 4.14.4, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

4.14.12.22.Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

4.14.13. DEVELOPMENT PERMIT.

4.14.13.1. A floodplain development permit shall be required in conformance with the provisions of this Section prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of 4.14.5 of this ordinance.

4.14.13.2. Application of a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The Applicant shall submit a Flood Prevention Plan as set forth in Appendix B.

4.14.13.3. The Floodplain Development Permit shall include, but not be limited to:

- A description of the development to be permitted under the floodplain development permit.
- The Special Flood Hazard Area determined for the proposed development in accordance with available data specified in Section 4.14.5.
- The regulatory flood protection elevation required for the reference level and all

- attendant utilities.
- The regulatory flood protection elevation required for the protection of all public utilities.
- All certification submittal requirements with timelines.
- A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
- Limitations of below BFE enclosure uses (if applicable). (i.e. parking, building access, and limited storage only)

4.14.14. CERTIFICATION REQUIREMENTS

4.14.14.1. Elevation Certificates

- An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
- A final as-built Elevation Certificate (FEMA 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

4.14.14.2. Floodproofing Certificate

If non-residential floodproofing is used to meet the

regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA 81-65), with supporting data, an operational plan, and an inspection and maintenance plan area required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to the permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

4.14.14.3. If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of 4.14.19.3.

4.14.14.4. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

4.14.14.5. Certification Exceptions. The following structures, if located within Zone A, AO, AE, or A1-30, are exempt from the elevation/floodproofing certification requirements specified in 4.14.14.1 and 4.14.14.2:

- Recreational Vehicles meeting requirements of 4.14.24;
- Temporary Structures meeting requirements of 4.14.21; and
- Accessory Structures less than 150 square feet meeting requirements of 4.14.22.

4.14.15. INSPECTIONS AND VIOLATIONS.

4.14.15.1. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local Ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

4.14.15.2. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

4.14.15.3. The Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

4.14.15.4. When the Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

4.14.16. REMEDY TO VIOLATION.

4.14.16.1. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

- That the building or property is in violation of the floodplain management regulations;
- That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- That following the hearing, the Floodplain Administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as applicable.
- If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this § 4.14, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred eight (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.
- If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.
- Any Applicant for which a Floodplain Development Permit has been denied, or to which conditions have been attached, or any Applicant owner who has received an order to take corrective action, may appeal from the decision or order pursuant to § 3.7 of this Ordinance.

4.14.17. VARIANCE PROCEDURES.

4.14.17.1. The Board of Adjustment as established by the City of Kannapolis, shall hear and decide requests for variances from the requirements of this Section 4.14 in accordance with the procedures and standards set forth in § 3.7 of this Ordinance.

4.14.17.2. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision

to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

4.14.17.3. Variances may be issued for:

- The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- Functionally dependent facilities if determined to meet the definition as stated in Appendix A of the UDO, provided such facilities are protected by methods that minimize flood damages during base flood damages during the base flood and create no additional threats to public safety.
- Any other type of development, provided it meets the requirements of 4.14.17.

4.14.17.4. In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of 4.14., and:

- The danger that materials may be swept onto other lands to the injury of others;
- The danger to life and property due to flooding or erosion damage;
- The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- The importance of the services provided by the proposed facility to the community;
- The necessity to the facility of a waterfront location as defined in Appendix A as a functionally dependent facility, where applicable;
- The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- The compatibility of the proposed use with existing and anticipated development;
- The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- The safety of access to the property in times of flood for ordinary and emergency vehicles;
- The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and effects of wave action, if applicable, expected at the site; and

- The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

4.14.17.5. The findings listed above shall be submitted to the Board of Adjustment in writing, and included in the application for a variance.

4.14.17.6. Upon consideration of the factors listed above, and the purposes of this Section 4.14, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Section 4.14.

4.14.17.7. Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

4.14.17.8. Conditions for variances are as follows:

- Variances shall not be issued when the variance will render the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- Variances shall only be issued prior to development permit approval.
- Variances shall only be issued upon:
 - A showing of good and sufficient cause;
 - A determination that failure to grant the variance would result in exceptional hardship; and
 - A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

4.14.17.9. A variance may be issued for solid waste disposal facilities per site, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the flowing conditions are met:

- The use serves a critical need in the

community.

- No feasible location exists for the use outside the Special Flood Hazard Area.
- The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
- The use complies with all other applicable Federal, State, and local laws.
- The City of Kannapolis has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

4.14.17.10. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risk of life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

4.14.17.11. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

4.14.18. PROVISIONS FOR FLOOD HAZARD REDUCTION.

In all Special Flood Hazard Areas the following provisions are required:

- All new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating

within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panel/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

- All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- Any alteration, repair, reconstruction or improvements to a structure, which is in compliance with the provisions of this Ordinance, shall meet the requirements of new construction as contained in this Section 4.14.
- Nothing in this Section 4.14 shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Section 4.14 and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Section 4.14.
- New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in 4.14.17.9. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of 4.14.14.
- All subdivision and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution

Control Act Amendments of 1972, 33 USC 1334.

- When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

4.14.19. SPECIFIC STANDARDS FOR CONSTRUCTION OF PERMANENT STRUCTURES.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in 4.14.5 or 4.14.14, the following provisions, in addition to the provisions of 4.14.18 are required:

4.14.19.1. Residential Construction.

New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including the basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A of this ordinance.

4.14.19.2. Manufactured Homes.

The following shall apply to Manufactured homes only:

- New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Appendix A of this ordinance.
- Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS § 43-143.15. Additionally, when the elevation would be met by an elevation of the chassis at least thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

- All enclosures or skirting below the lowest floor shall meet the requirements of 4.14.20.
- An evacuation plan must be developed of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

4.14.19.3. Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial, or non-residential structure shall have the reference level, including the basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A. Structures located in A, AE, AO, and A1-30 Zones may be floodproofed to the regulatory flood prevention elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with 4.14.14.2. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in 4.14.4, along with the operational and maintenance plans.

4.14.20. ELEVATED BUILDINGS.

4.14.20.1. New construction or substantial improvements of elevated buildings that include fully enclosed areas which are below the lowest floor:

4.14.20.1.1. Shall not be designed or used for human habitation, but shall only be used for the parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.

4.14.20.1.2. Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation;

4.14.20.1.3. Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by

allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

- A minimum of two flood openings on different sides of each enclosed area subject to flooding;
- The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
- If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
- The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
- Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
- Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage rooms.
- Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

4.14.21. TEMPORARY NON-RESIDENTIAL STRUCTURES.

4.14.21.1. Prior to the issuance of a floodplain development permit for a temporary structure, the following requirements must be met:

- All applicants must submit to the Floodplain Administrator, a plan for the removal of such structure(s) in the event of a hurricane, flash flood, or other type of flood warning

notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval;

- A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
- The name, address and phone number of the individual responsible for the removal of the temporary structure;
- The time frame prior to the event at which a structure will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure ; and
- Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

4.14.22. ACCESSORY STRUCTURES.

4.14.22.1. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Boundary Area, the following criteria shall be met:

- Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- Accessory structures shall not be temperature-controlled;
- Accessory structures shall be designed to have low flood damage potential;
- Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- Accessory structures shall be firmly anchored in accordance with § 4.14.18;
- Service facilities such as electrical shall be installed in accordance with § 4.14.18.
- Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below base flood elevation in conformance with § 4.14. 20.

4.14.22.2. An accessory structure with a footprint of less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or

floodproofing certifications are required for all other accessory structures in accordance with Section 4.14.14.

4.14.23. ADDITIONS/IMPROVEMENTS

4.14.23.1. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

- Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure
- A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

4.14.23.2. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

4.14.23.3. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

- Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
- A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

4.14.24. RECREATIONAL VEHICLES.

4.14.24.1. A Recreation vehicles shall either:

- Be on-site for fewer than 180 consecutive days and be fully licensed and ready for highway use(a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions) ; or
- Meets all requirements for new construction.

4.14.25. STANDARDS FOR LAND SUBDIVISIONS.

4.14.25.1. All subdivision proposals shall be

consistent with the need to minimize flood damage;

4.14.25.2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

4.14.25.3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;

4.14.26. FLOODWAYS AND NON-ENCROACHMENT AREAS.

4.14.26.1. Areas designated floodways or non-encroachment areas are located within Special Flood Hazard Areas established in 4.14.5. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in 4.14.18 through 4.14.20, shall apply to all development within such areas:

4.14.26.2. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

- It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
- A Conditional Letter of Map Revisions (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

4.14.26.3. If § 4.14.26.2 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Section 4.14.

4.14.26.4. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, providing the following provisions are met:

- The anchoring and the elevation standards of 4.14.19; and
- The no encroachment standard of 4.14.26.2.

4.14.27. STREAMS WITHOUT BASE FLOOD ELEVATIONS AND/OR FLOODWAYS.

4.14.27.1. Within the Special Flood Hazard Areas designated as Approximate Zone A and established in § 4.14.5, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of 4.14.18, shall apply:

4.14.27.1.1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

4.14.27.1.2. The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

- When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable provisions of this division and shall be elevated or floodproofed in accordance with elevations established in accordance with 4.14.18 and 4.14.19.
- When floodway data is available from a Federal, State, or other resource, all new construction and substantial improvements within floodway areas shall also comply with the requirements of 4.14.19 and 4.14.22.
- All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with 4.14.5 and utilized in implementing this ordinance.
- When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory

Flood Protection Elevation, as defined in Appendix A. All other applicable provisions of 4.14.19 and 4.14.20 shall also apply.

4.14.28. STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

4.14.28.1. Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- Standards of Sections 4.14.18 and 4.14.19; and
- Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

4.14.29. AREAS OF SHALLOW FLOODING (AO ZONES).

4.14.29.1. Located within the Special Flood Hazard Areas established in § 4.14.5 are areas designated as shallow flooding areas. These areas have special flood hazard associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 4.14.18 through 4.14.20, all new construction and substantial improvements shall meet the following requirements:

4.14.29.1.1. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth is specified.

4.14.30. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE

This Section in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted October 27, 2008 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this section shall not affect any action, suit, or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the City of Kannapolis enacted on October 27, 2008, as amended, which are not reenacted herein are repealed.

4.15. RIVER/STREAM OVERLAY (RSOD) DISTRICT.

4.15.1. PURPOSE.

The river/stream overlay districts shall be comprised of strips of land adjacent to streams and rivers which shall be retained in their natural vegetated, revegetated or reforested state through the preservation of appropriate perennial vegetation. It is the purpose of the districts and the vegetation to minimize soil erosion, reduce the velocity of overland stormwater flow, trap sediment and soil eroded from cropland or land being developed, and limit other pollutants from entering the waterways.

4.15.2. LOCATION.

4.15.2.1. When development is planned, waterbodies shall be designated by a qualified individual certified to identify intermittent and perennial streams by the North Carolina Department of Environment and Natural Resources. The following areas shall comprise the River/Stream Overlay District (RSOD):

4.15.2.2. A minimum 50 foot undisturbed stream buffer (the "Buffer") shall be established on both sides of all perennial streams and on all sides of water impoundments that are fed by perennial streams. The size of a stream buffer shall be measured from the average annual stream bank perpendicularly for a distance of 50 feet plus four (4) times the average percent of slope of area adjacent to the stream. This slope shall be calculated by measuring a distance of 250 feet from the center of the stream. The percent of slope for this distance shall serve as the determining factor. However, the maximum distance shall not exceed 120 feet from the edge of the stream.

4.15.2.3. A 20 foot undisturbed stream buffer (the "Buffer") shall be established on both sides of all intermittent streams and all sides of water impoundments that are fed by intermittent streams.

4.15.2.4. A vegetated setback shall be established along all stream buffers. The vegetative setback shall be measured from the buffer boundary landward in a direction perpendicular to the edge of the buffer. Perennial vegetation shall be maintained within the vegetative setback. Any area disturbed within the vegetative setback shall be revegetated with perennial vegetation as soon as practical after the disturbance. No building or structure or part

thereof shall be erected, established, or constructed within this setback. The vegetative setback for perennial streams shall be twenty (20) feet. The vegetative setback for intermittent streams shall be ten (10) feet. If there is a difference in the zoning ordinance setbacks, the strictest setback shall apply.

4.15.3. APPLICABILITY; EFFECT UPON BONA FIDE FARMS.

The use of best management practices in farming is strongly encouraged. A stream buffer is one of these practices and is therefore consistent with North Carolina Sediment Control Law and thus is 75% reimbursable under the North Carolina agricultural Cost - Share Program. This program is administered through the County Soil and Water Districts. Therefore, the following text shall apply to all development (farming is not considered development), or changing of conditions (e.g., timbering) adjacent to a perennial stream as defined below.

4.15.4. DEVELOPMENT CRITERIA

4.15.4.1. No development, including soil disturbing activities, shall occur within the Buffer except the following:

- Sewer easements, providing the activities strictly adhere to applicable state and local soil and erosion control regulations/guidelines. Perennial vegetation must be established as a necessary step in completing construction of any sewer facilities. Sewer easements should be as close to perpendicular or parallel to the stream channel to minimize the impact on the stream buffer.
- Other overhead and/or underground utilities, roads, streets, bridges, or similar structures within dedicated rights-of-way. Said structures shall cross the buffer as close to perpendicular as possible. For purposes of this subsection, a Greenway shall not be considered a "structure".
- Greenways are permitted within the Buffer.
- Projects that have been permitted through the US Army Corps of Engineers.
- Agricultural soil disturbing activities such as plowing, grading, ditching, excavating, placement of fill material, or similar activities may occur within the Buffer. Said activities

shall conform to all State and Federal regulations. Existing agricultural operations, forested or vegetated areas within stream buffer areas shall follow the state's forest practice guidelines which include best management practices (BMPs) as defined by the North Carolina Soil and Water Conservation Commission. Other agricultural activities not enumerated herein, which activities would result in significant disturbance of the existing soil, increase soil erosion, or destroy plant and wildlife habitats, are strongly discouraged and shall not occur except in accordance with the following requirements:

- Said activities shall be consistent with an approved replacement program.
- Said activities shall be consistent with the North Carolina Sediment Control Law.
- Said activities shall be coordinated with the North Carolina Wildlife Resources Commission's District 6 Biologist and the County Soil and Water District Representative.

4.15.4.2. All disturbed areas within the buffer zone, permitted or not, shall be revegetated with perennial vegetation as soon as practical (immediately) after the disturbance. Forested areas shall be reforested if possible as detailed in the approved replacement program discussed in subsection 4.15.4.1, above.

4.15.4.3. A progress report shall be submitted by the individual, corporation, or company disturbing land in the RSOD to the Planning Department within 60 days of approval of the replacement program. Two other reports may be required at 120 and 180 days if the program is not completed. The first two reports shall explain what work has been completed and any results as well as a time schedule for completion of the rest of the program. The final report shall document that the replacement program has been completed. The site shall be regularly inspected by the Administrator to assure activity and compliance. Any noncompliance shall be treated as a zoning violation and be subject to enforcement as described in § 1.6 of this Ordinance.

4.16. WATERSHED PROTECTION OVERLAY DISTRICTS

4.16.1. PURPOSE.

The purpose of these overlay districts is to implement the Water Supply Watershed Protection Act (the Act) (NCGS §§ 143-214.5 & 143-214.6). The Water Supply Watershed Protection Rules adopted by the North Carolina Environmental Management Commission (the “EMC”) requires that all local governments having land use jurisdiction within water supply watersheds adopt and implement water supply watershed protection ordinances, and maps. The City of Concord, the City of Kannapolis, the Town of Mount Pleasant and Cabarrus County have adopted watershed protection overlay restrictions as part of their zoning ordinances. It is the intent of this Section 4.16 to continue these restrictions. While the restrictions previously codified separately in the zoning ordinances of Concord, Kannapolis and Cabarrus County are combined herein and rewritten for clarity and it is the intent of this Ordinance to carry forth these regulations which previously existed and which have been approved by the EMC.

4.16.2. JURISDICTION.

The provisions of this Ordinance shall apply within the areas designated within the following watershed overlay districts as shown on the Official Zoning Map. All explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance.

4.16.3. ESTABLISHMENT.

The watershed overlay zones listed in this subsection have been established by the City of Concord, the City of Kannapolis, Town of Mount Pleasant and Cabarrus County. Said overlay zoning districts are also established and continued in effect by this Ordinance. The watershed protection districts, the watershed classification, and the jurisdiction within which the watershed districts are established, are as listed in Table 4.16-1.

4.16.4. CRITICAL AREA BOUNDARY ADJUSTMENTS

The Planning and Zoning Commission may, in carrying out its plan review authority under this Ordinance, including its subdivision review authority under the Subdivision Ordinance, adjust the boundary of a Watershed Critical Area Overlay District to fit existing or proposed streets, lot lines or other features provided that such adjustments are agreed to by the property owner(s) involved and provided that any such adjustment is made with no loss of total area in the

affected Watershed Critical Area Overlay District.

4.16.5. INTERPRETATION OF THE WATERSHED BOUNDARIES

The Board of Adjustment shall have the power to make adjustments to the exterior boundary of Watershed Overlay Districts by removing all or part of a piece of property from a Watershed Overlay District where it finds that all or part of such property actually lies outside the drainage area of such Watershed. In any case where there is a dispute as to whether a property or any part of a property that is shown on the Official Zoning Map as being in a Watershed Overlay District actually drains to that Watershed, the Board of Adjustment shall, upon appeal by the owner, make a determination as to the facts of the matter as it affects the subject property.

In determining whether a property or part of a property drains to the Watershed as indicated on the Map, the Board of Adjustment shall base its determination on actual field conditions of the property as determined by topographical conditions. In making its determination, the Board of Adjustment may require the appellant to produce relevant expert testimony and exhibits.

After hearing such appeal, the Board shall find that the subject property (all or part) is either in the designated Watershed or out of the designated Watershed. If the Board shall find that the subject property is out of the designated Watershed, the Board shall order the Map to be adjusted to show the subject property to be outside the designated Watershed. In making such order, the Board of Adjustment shall designate the Watershed in which the subject property is located. If such designation causes the subject property to be located in another Watershed Overlay District, the order shall cause the Map to be adjusted to show the same

4.16.6. GENERAL PROVISIONS APPLICABLE TO ALL WATERSHED OVERLAY DISTRICTS

The following general provisions apply to all Watershed Overlay Districts. These provisions and the provisions contained in the Individual Watershed Overlay Districts are designed to protect the water quality of the Water Supply Watersheds that lie within the jurisdiction of this Ordinance and to implement the

rules adopted by the North Carolina Environmental Management Commission for the classified watersheds pursuant to North Carolina General Statutes 143-214.5.

4.16.6.1. The construction of new roads and bridges and non-residential development should minimize built-upon area, divert stormwater away from surface water supply waters as much as possible, and employ best management practices (BMPs) to minimize water quality impacts. To the extent practicable, the construction of new roads in the critical area should be avoided. The N.C. Department of Transportation BMPs as outlined in their document entitled "Best Management Practices for the Protection of Surface Waters" shall be used in all road and bridge construction projects in the Watershed Overlay Districts.

4.16.6.2. All development activities within Watershed Overlay Districts, in addition to those activities specifically regulated by these provisions, are subject to the standards, usage conditions and other regulations contained in the Rules and Requirements of the Surface Water Supply Protection Rules adopted by the North Carolina Environmental Management Commission.

4.16.6.3. A minimum 50-foot vegetative buffer for development activities is required along all perennial waters, including streams, rivers and impoundments, indicated on the most recent versions of United States Geodetic Survey (USGS) 1: 24,000 scale topographic maps; provided, that nothing in this Subsection shall prevent artificial streambank or shoreline stabilization. No new development is allowed in the buffer, except that water dependent structures, or other structures such as flagpoles, signs, and security lights, which result in only diminimus increase in impervious area and public works projects such as road crossings and greenways may be allowed where no practicable alternative exists. These activities shall minimize built-upon surface area, direct runoff away from the surface water, and maximize the utilization of BMPs.

4.16.6.4. Where otherwise permitted in the underlying Primary Zoning District, Cluster Development is allowed on a project by project basis as follows:

- The overall density of the project meets the density requirements of this Ordinance;
- The appropriate vegetative buffer in 4.16.6.3

above is provided;

- Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, and maximize the flow length through vegetated areas;
- Areas of concentrated development are located in upland areas and away, to the maximum extent practicable, from surface waters and drainage ways;
- Remainder of tract to remain in vegetated or natural state;
- The area in the vegetated or natural state may be conveyed to a property owners association; a local government for preservation as a park or greenway; a conservation organization; or placed in a permanent conservation or farmland preservation easement. A maintenance agreement shall be filed with the property deeds and;
- Cluster development shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable.

4.16.6.5. All development in Watershed Overlay Districts, shall, to the maximum extent practical, minimize built-upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts.

4.16.6.6. Existing development, as defined in this Ordinance, is not subject to the requirements of the overlay provisions. Expansions to structures classified as existing development must meet the requirements of these provisions, provided however, the built-upon area of the existing development is not required to be included in the density calculations. In determining expansions to existing development, the maximum permitted additional built-upon area is derived by multiplying the area of the portion of the property that is not built-upon by the appropriate percent built-upon limitation for the Overlay District in which the property is located.

4.16.6.7. A pre-existing lot created prior to the effective date of this Ordinance, regardless of whether or not a vested right has been established, may be developed or redeveloped for single family residential purposes without being subject to the restrictions of these overlay provisions.

4.16.6.8. Any existing building or built-upon area not in conformance with the limitations of these provisions that has been damaged or removed for any reason may be repaired and/or reconstructed, provided:

- Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage or removal.
- The total amount of space devoted to built-upon area may not be increased.
- The repair or reconstruction is otherwise permitted under the provisions of this Ordinance.
- No activity, situation, structure or land use shall be permitted or allowed to operate within a watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

4.16.6.8.1. The Administrator may require such information on Zoning Clearance Permit and Site Plan or Subdivision Plan applications, including density/built-upon area calculations, as he may deem necessary to determine compliance with Watershed Overlay District provisions.

4.16.6.8.2. The Administrator may, prior to the issuance of any permit in a Watershed Overlay District, require evidence of a valid Sedimentation Control Permit or evidence satisfactory to the Administrator that no permit is required.

4.16.6.8.3. The Administrator shall maintain records of the administration of the Watershed Overlay District regulations and shall submit any modifications of the regulations to the Division of Environmental Management, Division of Environmental Health and Division of Community Assistance. The Zoning Administrator shall also maintain a record of variances issued and shall submit an annual report

of each project receiving a variance and the reason for the variance to the Division of Environmental Management. The annual report shall contain the record of each variance granted by the Board of Adjustment during the previous calendar year and shall be submitted on or before January 1 of the following year.

4.16.7. PROHIBITED USES.

Permitted principal, conditional and accessory uses shall be those permitted within the underlying zoning districts provided, however, that the uses listed in Column (B) of Table 4.16-2 shall be prohibited.

Table 4.16-1: Watershed Overlay Districts

WATERSHED	CLASSIFICATION	JURISDICTION
Coddle Creek Reservoir	WS-II CA	Cabarrus County
Coddle Creek Reservoir	WS-II BW	Cabarrus County
Dutch Buffalo Creek	WS-II CA	Cabarrus County
Dutch Buffalo Creek	WS-II BW	Cabarrus County
Lake Concord	WS-IV CA	Cabarrus County, City of Concord & City of Kannapolis
Lake Concord	WS-IV PA	City of Kannapolis
Lake Fisher	WS-IV CA	Cabarrus County & City of Kannapolis
Lake Fisher	WS-IV PA	City of Kannapolis
Lake Kannapolis	WS-III CA	City of Kannapolis
Lake Kannapolis	WS-III BW	City of Kannapolis
Tuckertown Reservoir	WS-IV PA	Cabarrus County

Notes: “CA” denotes “Critical Area”
 “PA” denotes “Protected Area”
 “BW” Balance of Watershed”

Table 4.16-2: Prohibited Uses

(A) DISTRICT	(B) PROHIBITED USES
Coddle Creek Reservoir WS-II CA	Commercial or industrial uses or hazardous material
Coddle Creek Reservoir WS-II BW	<input type="checkbox"/> No National Pollution Discharge Elimination System (NPDES) Permits shall be issued for landfills that discharge treated leachate. <input type="checkbox"/> Uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Dutch Buffalo Creek WS-II CA	Commercial or industrial uses or hazardous material
Dutch Buffalo Creek WS-II BW	<input type="checkbox"/> No National Pollution Discharge Elimination System (NPDES) Permits shall be issued for landfills that discharge treated leachate. <input type="checkbox"/> Uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Lake Concord WS-IV CA	<input type="checkbox"/> new sites for land application of residual <input type="checkbox"/> new sites for petroleum contaminated soils <input type="checkbox"/> new landfills <input type="checkbox"/> uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Lake Concord WS-IV PA	Uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Lake Fisher WS-IV CA	<input type="checkbox"/> new sites for land application of residual <input type="checkbox"/> new sites for petroleum contaminated soils <input type="checkbox"/> new landfills <input type="checkbox"/> uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Lake Fisher WS-IV PA	Uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Lake Kannapolis WS-III CA	<input type="checkbox"/> new sites for land application of residual <input type="checkbox"/> new sites for petroleum contaminated soils <input type="checkbox"/> new landfills <input type="checkbox"/> uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Lake Kannapolis WS-III BW	<input type="checkbox"/> No National Pollution Discharge Elimination System (NPDES) Permits shall be issued for landfills that discharge treated leachate. <input type="checkbox"/> Uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.
Tuckertown Reservoir WS-IV CA	<input type="checkbox"/> new sites for land application of residual <input type="checkbox"/> new sites for petroleum contaminated soils <input type="checkbox"/> new landfills <input type="checkbox"/> uses involving the storage of toxic and hazardous materials unless a spill containment plan is implemented.

4.16.8. DEVELOPMENT CRITERIA.

4.16.8.1. RESIDENTIAL DENSITY & BUILT-UPON AREA. Residential development activities shall comply with the minimum lot size for the applicable underlying zoning district as established in Section 4.7 of this Ordinance. Notwithstanding, residential density shall not exceed that permitted for the corresponding watershed overlay district in one of either Column (B) or Column (C) of Table 4.16-3. As an option to complying with these residential density limitations, maximum built-upon area may be used instead. In such cases, the development project shall not exceed the built-upon amount established in Column (E) of Table 4.16-3 for each Overlay District on a project-by-project basis. Use of the built-upon area method shall not be permitted in either the Coddle Creek Reservoir WS-II CA or the Dutch Buffalo Creek WS-II CA.

4.16.8.2. NON-RESIDENTIAL LOT SIZE AND BUILT UPON AREA. Non-residential development activities shall comply with the minimum lot size for the applicable underlying zoning district as established in Section 4.7 of this Ordinance. Notwithstanding, individual non-residential development projects shall not exceed the built-upon amount established in Column (E) of Table 4.16-3 for each Overlay District

4.16.8.3. ⁽¹⁾LAKE CONCORD AND LAKE FISHER. Only development activities within the jurisdiction of the City of Kannapolis in the Lake Concord and Lake Fisher Water Supply Watersheds that require a sedimentation permit are subject to the maximum development intensity standards in Table 4.16-3.

Table 4.16-3: Maximum Development Intensity

(A) DISTRICT	(B) MINIMUM LOT SIZE	(C) MINIMUM LAND REQUIRED PER DWELLING UNIT	(D) MAXIMUM DENSITY (DWELLING UNITS/ACRE)	(E) MAXIMUM BUILT- UPON AREA
Coddle Creek Reservoir WS-II CA	Determined by underlying zoning district, provided the limitations of Column C or D of this Table are complied with.	3 acres	0.33	6% ⁽¹⁾
Coddle Creek Reservoir WS-II BW		1 acre	1.0	12%
Dutch Buffalo Creek WS-II CA		2 acres	0.5	6% ⁽¹⁾
Dutch Buffalo Creek WS-II BW		1 acre	1.0	12%
Lake Concord WS-IV CA		20,000 sf	2.0	24%
Lake Concord WS-IV PA		20,000 sf	2.0	24%
Lake Fisher WS-IV CA		20,000 sf	2.0	24%
Lake Fisher WS-IV PA		20,000 sf	2.0	24%
Kannapolis Lake WS-III CA		40,000 sf	1.0	12%
Kannapolis Lake WS-III BW		20,000 sf	2.0	24%
Tuckertown Reservoir WS-IV CA		20,000 sf	2.0	24%

Notes: ⁽¹⁾ Applicable to non-residential development only.

4.16.9. ADDITIONAL DEVELOPMENT CRITERIA**4.16.9.1. Coddle Creek Reservoir WS-II CA and Dutch Buffalo Creek WS-II CA.**

A 150 foot vegetative buffer shall be maintained from the normal pool level on all property adjoining the reservoir. No permanent structures shall be permitted within this buffer area.

4.16.9.2. Lake Concord WS-IV PA, Lake Fisher WS-IV PA, and Kannapolis Lake WS-III BW.

4.16.9.2.1. Residential development activities within the jurisdiction of the City of Kannapolis in the Protected Area or Balance of Watershed which require a sedimentation permit and which are not required to use, or which do not use, a curb and gutter system, shall not exceed three (3) dwelling units per acre or, optionally, 36% built-upon area.

4.16.9.2.2. Special Intensity Allocation. Notwithstanding the restrictions established by Table 4.16-3 and subsection 4.16.9.2.1 of this Section, new non-residential development may be established with up to seventy percent (70%) of built-upon area when approved ⁽¹⁾ as a Special Intensity Allocation (SIA). The Watershed Review Board is authorized to approve SIAs consistent with the provisions of this article ⁽¹⁾. The Administrator shall maintain a record of the total acreage within each overlay district that has been used as of the latest date. In no case shall allocated acreage exceed the acreage eligible for allocation. For purposes of this subsection, the total areas that can be allocated within each district area as follows:

- Lake Fisher WS-IV PA: 152.64 acres ⁽¹⁾
- Lake Concord WS-IV PA: 192.90 acres ⁽¹⁾
- Kannapolis Lake WS-III BW: 46.70 acres.

4.16.9.2.3. Applicants requesting a SIA shall present their request to the Planning Staff thirty (30) days prior to the next available Planning Commission meeting. Projects must be presented in the form of a SIA site plan, prepared by a Professional Engineer, and must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices (BMPs) to minimize water quality impacts. All property subject to a request for a SIA must be uniformly zoned ⁽¹⁾.

4.16.9.2.4. The right to develop an SIA shall terminate with the loss of the right to develop due to the expiration of a Zoning Compliance permit or building permit. In such cases, allocated acreage or unused allocated acreage shall be returned to the unallocated total acreage eligible for allocation.

4.16.9.2.5. The percentage of built-upon area allocated as an SIA shall be determined by Table 4.16-4 and approved by the Watershed Review Board⁽¹⁾.

4.16.9.2.6. In no case shall the built-upon area of an SIA exceed the built-upon limitations of the underlying Zoning District⁽¹⁾.

4.16.10. ESTABLISHMENT OF THE WATERSHED REVIEW BOARD ⁽¹⁾

4.16.10.1. The City of Kannapolis Planning & Zoning Commission is hereby appointed to serve as the Watershed Review Board⁽¹⁾.

4.16.10.2. Members of the Watershed Review Board are subject to the same By-Laws adopted for the Planning & Zoning Commission ⁽¹⁾.

4.16.11. VARIANCE PROCEDURES.

The Board of Adjustment may authorize variances from the specific requirements of the Watershed Overlay Districts in the same manner and subject to the same procedures and requirements of this Article for authorizing other variances, provided that:

- The notice required in Section 3.1.5 shall also be mailed by first class mail to all other local governments having watershed regulation jurisdiction within the particular watershed where the variance is requested and to each entity using that water supply for consumption; and
- If the variance request is for a major variance as defined herein the following procedure shall apply. If the Board of Adjustment decides in favor of granting the major variance, the Board shall then prepare a preliminary record of the hearing and submit it to the North Carolina Environmental Commission (EMC) for review and action. If the Board does not decide in favor of granting the major variance such unfavorable action shall constitute denial. In the event of

favorable action by the Board on a major variance, the Board, shall cause the record of their hearing to be promptly submitted to the EMC. The record of the hearing shall include but not be limited to: (a) The variance

application; (b) The hearing notices; (c) The evidence presented; (d) Motions, offers of proof, objections to evidence and rulings on them; (e) Findings and exceptions; (f) The action of the Board including any conditions proposed.

Table 4.16-4 Special Intensity Allocation Point System

Categories Used for SIA Consideration	Potential Points										
1. Tax Base Increase <i>(estimated tax value of completed project)</i> \$200,000 - \$500,000 \$500,000 - \$999,999 \$1,000,000 to \$1,999,999 \$2,000,000 or more	15 25 50 75										
2. Full-time Jobs Created 1 - 10 11 - 25 26 or more	15 25 50										
3. Community Value (determined by Watershed Review Board)	up to 150										
4. Type of Industry Retail Trade Office / Institutional Industrial / Manufacturing Research & Development / Medical	10 10 20 20										
5. Revitalization of Existing Development	50										
6. Energy Reduction / Conservation Measures 10-20% Increase in Landscaping (above UDO) > 20% Increase in Landscaping (above UDO) Bioretention Applications LEED Certification	50 75 75 100										
<table border="1"> <tr> <th colspan="2">Potential Impervious Allowance</th></tr> <tr> <td>100 - 149 points</td><td>40% imp.</td></tr> <tr> <td>150 - 199 points</td><td>50% imp.</td></tr> <tr> <td>200 - 249 points</td><td>60% imp.</td></tr> <tr> <td>> 249 points</td><td>70% imp.</td></tr> </table>		Potential Impervious Allowance		100 - 149 points	40% imp.	150 - 199 points	50% imp.	200 - 249 points	60% imp.	> 249 points	70% imp.
Potential Impervious Allowance											
100 - 149 points	40% imp.										
150 - 199 points	50% imp.										
200 - 249 points	60% imp.										
> 249 points	70% imp.										

4.17. MANUFACTURED HOME OVERLAY (MHOD) DISTRICT.

4.17.1. PURPOSE.

The purpose of this Section is to provide sufficient land area for the provision of manufactured housing in order to implement NCGS § 160A-383.1 and to provide affordable housing opportunities for low and moderate income persons. A manufactured home is defined as structure, used or intended to be used as a Dwelling Unit, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq. (Source: The Uniform Standards Code for Manufactured Homes Act," NCGS § 143-145). For purposes of this Ordinance, a "manufactured home" does not include a structure which otherwise complies with this subsection, but which was built prior to June 15, 1976, which units shall be classified as "mobile homes."

4.17.2. MODULAR HOMES EXEMPTED.

Manufactured (or Modular) Housing Constructed to meet the N.C. State Building Code shall be exempt from the restrictions of this § 4.17 and shall be permitted in any Single-family detached dwelling zoning district subject to any other provisions of this Ordinance.

4.17.3. ESTABLISHMENT.

This Section establishes two (2) Manufactured Home Overlay Districts in order to provide flexibility with regard to various manufactured home products:

MH-1
MH-2

4.17.4. CLASSIFICATION OF MANUFACTURED HOMES.

4.17.4.1. The following classification system is hereby adopted for purposes of this Section:

- **MANUFACTURED HOME - TYPE I.** A single-section manufactured home less than seventeen (17) feet in width.
- **MANUFACTURED HOME - TYPE II.** A multi-section manufactured home greater than or equal to seventeen (17) feet in width.

4.17.4.2. The width of a manufactured home shall be determined by mean width when all sections are in a final assembly arrangement.

4.17.5. MH-1, MANUFACTURED HOME OVERLAY.

4.17.5.1. Purpose. The purpose of the MH-1, Manufactured Home Overlay District, is to provide for the principal use of land developed in harmony with the Underlying Zoning District regulations; however, permitting the substitution of a Manufactured Home as a Principal Building provided the specific design and/or installation regulations appearing in § 4.17.8 herein are met.

4.17.5.2. Uses Permitted.

Use permitted as of right within the MH-1 Overlay District include:

- All uses permitted in the Underlying Zoning District (see Use Matrix, Table 4.6-1 of this Ordinance).
- Manufactured Homes - Type I (permanent installations only)
- Manufactured Homes - Type II (permanent installations only)

4.17.5.3. Design Standards. (Refer to § 4.17.8.2 herein.)

4.17.6. MH-2, MANUFACTURED HOME OVERLAY.

4.17.6.1. Purpose. The purpose of the MH-2, Manufactured Home Overlay District, is to provide for the Principal Use of land developed in harmony with the Underlying Zoning District regulations; however, permitting the substitution of a Manufactured Home as a Principal Building

provided the specific design and/or installation regulations appearing in § 4.17.8 herein are met.

4.17.6.2. Uses Permitted.

Use permitted as of right within the MH-2 Overlay District include:

- All uses permitted in the Underlying Zoning District (see Table 4.6-1 of this Ordinance).
- Manufactured Homes - Type II (permanent installations only)

4.17.6.3. Design Standards. (Refer to § 4.17.8.2 herein.)

4.17.7. (Reserved)

4.17.8. DESIGN STANDARDS.

4.17.8.1. (Reserved)

4.17.8.2. Design and Installation Standards for individual Manufactured Homes.

4.17.8.2.1. All individual manufactured homes within an MH-1 or MH-2 Overlay district or within an existing, previously approved Manufactured Home Park shall comply with the following design and installation standards:

4.17.8.2.2. Any manufactured home on an individual lot shall conform to the same building setback standards, side and rear yard requirements, standards for enclosures, access, vehicle parking, and square footage standards and requirements to which a conventional single-family residential dwelling on the same lot would be subject. The provisions of this § 4.17.8.2.2 shall not apply to a Manufactured Home Park where the lots are not subdivided into separate tracts of land.

4.17.8.2.3. A minimum 3:12 roof pitch is required.

4.17.8.2.4. A continuous masonry curtain wall

or foundation, unpierced except for ventilation and access, shall be installed under the outer perimeter of the Dwelling from its base to the ground so as to be compatible with surrounding residential land uses. (Note: See APPENDIX C, Section C-503, Volume VII, North Carolina State Building Code). The provisions of this § 4.17.8.2.4 shall not apply to a Manufactured Home Park where the lots are not subdivided into separate tracts of land.

4.17.8.2.5. The Dwelling shall be attached to a permanent foundation system in compliance with the N.C. State Building Code as may be amended, and the following requirements:

4.17.8.2.6. All wheels, hitches, axles, transporting lights and removable towing apparatus shall be permanently removed prior to installation of the dwelling unit.

4.17.8.2.7. The foundation shall be excavated and shall have continuous skirting or backfill leaving no uncovered open areas excepting vents and crawl spaces. The foundation shall be exposed no more than twelve (12) inches above grade.

4.17.8.2.8. For homes which are narrower than seventeen (17) feet in width, the unit shall be oriented on the lot so that its long axis is parallel to the street.

4.18. PUBLIC INTEREST DEVELOPMENT (PID) DISTRICT.

4.18.1. PURPOSE.

It is the purpose and intent of this Section to permit the creation of Public Interest Development Districts (PID) in areas designated by the city Council as having special and substantial public interest, by virtue of unique environmental, economic, cultural, entertainment, or other characteristics or conditions not generally shared by other areas of the City. It is further intended that such districts and the regulations established therein shall be in accord with and promote the policies set forth in the City's *Comprehensive Plan*. Because the PID addresses situations which affect the entire region, which create intermittent or unusual impacts and public benefits, and which require flexibility in the administration of land use regulations, and in order to avoid the potential for abuse of the PID rezoning process, it is the intent of this Section that only one (1) PID will be designated within the jurisdiction of the City.

4.18.2. PERMITTED USES.

The uses permitted in a PID district shall be the permitted uses as set forth and approved in the PID application.

4.18.3. EFFECT OF PID DESIGNATION.

A PID may be created as either a new district which completely replaces the existing zoning for a specific area, or may be created as an overlay district which supplements the existing underlying zoning districts. Subsequent to designation as a PID, all property within the district shall be developed in accordance with the standards of the district and other applicable requirements of the City of Kannapolis.

4.18.4. APPLICATION OF A PID DESIGNATION.

Application for a PID may be initiated by the City Council or the Planning Commission, or by the owner of a property for which a PID district is sought to be designated. Each application shall include a unique designation which clearly identifies the proposed district and shall include the information listed below:

- Statement of Intent specifying the nature of the special and substantial public interest involved and the objectives to be promoted by special regulations.
- Proposed District boundaries, including any subareas, which must include a map of the proposed district and may utilize narrative

descriptions and /or other references to further define the proposed area.

- A statement as to whether the proposed district is a replacement district or an overlay district.
- Proposed regulations and/or modifications to regulations, which by virtue of the unique characteristics of the district, are appropriate and reasonable to protect the public's interest in the area.
- Procedures for the administration of the regulations in the district which may include processes unique to the district.
- A conceptual plan which depicts the general nature of the proposed district and the general distribution of the uses allowed in the district.

4.18.5. LIMITATIONS.

4.18.5.1. Applications for PID classification shall only be considered for tracts larger than 25 acres, unless the petition would add land to a previously established PID.